FEDERAL REGISTER

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Washington, Thursday, June 18, 1953

TITLE 3—THE PRESIDENT

PROCLAMATION 3021

THEODORE ROOSEVELT WEEK

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS Theodore Roosevelt holds an honored place in the annals of our country as a spirited soldier, a far-sighted statesman, an intrepid explorer, and a forceful writer; and

WHEREAS the dedication of Theodore Roosevelt's home at Sagamore Hill, Oyster Bay, New York, as a national shrine is to take place during the week of June 14, 1953; and

WHEREAS the Congress, by a joint resolution approved on June 13, 1953, has designated the week beginning June 14, 1953, as Theodore Roosevelt Week, in honor of our former President, and has requested the President to issue a proclamation calling upon the people of the United States to observe that week by paying tribute to the achievements and memory of Theodore Roosevelt:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby call upon the people of the United States to observe the week beginning June 14, 1953, as Theodore Roosevelt Week by paying tribute to the achievements and memory of that great American, and I urge interested individuals and organizations to take part in appropriate ceremonies commemorative of the inspiring role of Theodore Roosevelt in our national heritage.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 14th day of June, in the year of our Lord nineteen hundred and fifty-three, and of the Independence of the United States of America the one hundred and seventy-seventh.

[SEAL]

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES,
Secretary of State.

[F. R. Doc. 53-5479; Filed, June 17, 1953; 10:38 a. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

STATE DEPARTMENT

Effective upon publication in the FEDERAL REGISTER, the positions listed below are excepted from the competitive service under Schedule A.

§ 6.102 *State Department.* • • •

(b) *Office of the Secretary.* • • •

(5) Six positions of Member of the Executive Secretariat.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633. E. O. 10440, March 31, 1953, 18 F. R. 1823)

[SEAL] UNITED STATES CIVIL SERVICE COMMISSION,
WM. C. HULL,
Executive Assistant.

[F. R. Doc. 53-5403; Filed, June 17, 1953; 8:53 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

[Plum Order 5]

PART 936—FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN CALIFORNIA

REGULATION BY GRADES AND SIZES

§ 936.450 *Plum Order 5*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 36, as amended (7 CFR Part 936), regulating the handling of fresh Bartlett pears, plums, and Elberta Peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the Plum Commodity Comittee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of

(Continued on p. 3475)

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

plums of the variety hereinafter set forth, and in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions of this section effective not later than June 19, 1953. A reasonable determination as to the supply of, and the demand for, such plums must await the development of the crop thereof, and adequate information thereon was not available to the Plum Commodity Committee until June 12, 1953; recommendation as to the need for, and the extent of, regulation of shipments of such plums was made at the meeting of said committee on June 12, 1953, after consideration of all available information relative to the supply and demand conditions for such plums, at which time the recommendation and supporting information was submitted to the Department; shipments of the current crop of such plums are expected to begin on or about June 15, 1953, and this section should be applicable to all such shipments of such plums in order to effectuate the declared policy of the act; and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time of this section.

(b) *Order.* (1) During the period beginning at 12:01 a. m., P. s. t., June 19, 1953, and ending at 12:01 a. m., P. s. t., November 1, 1953, no shipper shall ship any package or container of Tragedy plums unless:

(i) Such plums grade at least U. S. No. 1 with a total tolerance of ten (10) percent for defects not considered serious damage in addition to the tolerances permitted for such grade; and

(ii) Such plums are of a size not smaller than a size that will pack a 5 x 6 standard pack.

(2) Section 936.143 of the rules and regulations, as amended (7 CFR 936.100 et seq., 18 F. R. 712, 2839), sets forth the requirements with respect to the inspection and certification of shipments of plums. Such section also prescribes the conditions which must be met if any shipment is to be made without prior inspection and certification. Notwithstanding that shipments may be made without inspection and certification, each shipper shall comply with all grade and size regulations applicable to the respective shipment.

(3) As used in this section, "U. S. No. 1" and "serious damage" shall have the same meaning as set forth in the revised United States Standards for plums and prunes (fresh) § 51.360 of this title; "standard pack" shall have the applicable meanings of the terms "standard pack" and "equivalent size" as when used in § 936.142 of the aforesaid amended rules and regulations; and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Done at Washington, D. C., this 16th day of June 1953.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 53-5467; Filed, June 17, 1953; 8:45 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6038]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

JOSEPH GLUCK AND CO., INC., ET AL.

Subpart—*Misbranding or mislabeling:* § 3.1180 *Composition:* Wool Products Labeling Act; § 3.1325 *Source or origin*—Place—*Domestic product as imported.* Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 3.1845 *Composition*—Wool Products Labeling Act. I. In connection with the offering for sale, sale or distribution in commerce of fabrics, representing directly or by implication, that fabrics manufactured in the United States were manufactured in any other country and, II, in connection with the introduction into commerce or the offering for sale, sale, transportation or distribution in commerce, of wool fabrics or other wool products, as such products are defined in and subject to the Wool Products Labeling Act of 1939, which products contain, purport to contain or in any way are represented as containing "wool" "reprocessed wool" or "reused wool" as those terms are defined in said act, misbranding such products by fail-

ing to affix securely to or place on each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner: (a) the percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five percentum of said total weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of such wool products of any non-fibrous loading, filling, or adulterating matter; and, (c) the name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce or in the offering for sale, sale or distribution thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939; prohibited, subject to the provision, however, that the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of section 3 of the Wool Products Labeling Act of 1939; and subject to the further provision that nothing contained in the order shall be construed as limiting any applicable provisions of said act or the rules and regulations promulgated thereunder.

(Sec. 6, 38 Stat. 722, sec. 6, 54 Stat. 1131; 15 U. S. C. 46, 68d. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2–5, 54 Stat. 1128–1130; 15 U. S. C. 45, 68–68c) [Cease and desist order, Joseph Gluck and Company, Inc., et al., New York, N. Y., Docket 6038, April 2, 1953]

In the Matter of Joseph Gluck and Company, Inc., a Corporation, and Abner Gluck and Ned Gluck, Individually and as Officers of Said Corporation

This proceeding was heard by J. Earl Cox, hearing examiner, upon the complaint of the Commission, respondents' answer, and a hearing at which a stipulation was entered into by and between counsel for respondents and counsel in support of the complaint, subject to the approval of said examiner, theretofore duly designated by the Commission, whereby it was stipulated and agreed that a statement of facts, agreed to on the record, might be made a part of the record in the matter and might be taken as the facts in the proceeding and in lieu of evidence in support of the charges stated in the complaint or in opposition thereto.

Said stipulation further provided that said examiner might proceed upon said statement of facts to make his initial decision, stating his findings as to the facts, including inferences which he might draw from said stipulation of facts, and his conclusion based thereon, and enter his order disposing of the proceeding as to said respondents without the filing of proposed findings and conclusions or the presentation of oral argument; and that upon appeal to or review by the Commission such stipulations might be set aside by it and the matter remanded for further proceedings under the complaint.

Thereafter, the proceeding regularly came on for final consideration by said examiner upon the complaint, answer, and stipulation which had been approved by said examiner, who, after fully considering the record in the matter, and finding that the proceeding was in the interest of the public, made his initial decision comprising certain findings as to the facts,[1] conclusion drawn therefrom,[1] and order to cease and desist.

No appeal having been filed from said initial decision of said hearing examiner as provided for in Rule XXII, nor any other action taken as thereby provided to prevent said initial decision becoming the decision of the Commission thirty days from service thereof upon the parties, said initial decision, including said order to cease and desist, accordingly under the provisions of said Rule XXII became the decision of the Commission on April 2, 1953.

The said order to cease and desist is as follows:

It is ordered, That the respondents, Joseph Gluck and Company, Inc., a corporation, and its officers, and Abner Gluck and Ned Gluck, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of fabrics, do forthwith cease and desist from representing, directly or by implication, that fabrics manufactured in the United States were manufactured in any other country.

It is further ordered, That the respondents, Joseph Gluck and Company, Inc., a corporation, and its officers, and Abner Gluck and Ned Gluck, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, of wool fabrics or other wool products, as such products are defined in and subject to said act, which products contain, purport to contain or in any way are represented as containing "wool," "reprocessed wool" or "reused wool," as those terms are defined in said act, do forthwith cease and desist from misbranding such products by failing:

1. To affix securely to or place on each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner;

(a) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five percentum of said total weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers;

(b) The maximum percentage of the total weight of such wool products of any non-fibrous loading, filling, or adulterating matter;

[1] Filed as part of the original document.

(c) The name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce or in the offering for sale, sale or distribution thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939:

Provided, That the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of section 3 of the Wool Products Labeling Act of 1939; *And provided further,* That nothing contained in this order shall be construed as limiting any applicable provisions of said act or the rules and regulations promulgated thereunder.

By "Decision of the Commission and order to file report of compliance", Docket 6038, March 31, 1953, which announced and decreed fruition of said initial decision, report of compliance was required as follows:

It is ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: March 31, 1953.

By the Commission.

[SEAL] D. C. DANIEL, *Secretary.*

[F. R. Doc. 53-5399; Filed, June 17, 1953; 8:52 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter A—Income and Excess Profits Taxes

[T. D. 6019; Regs. 111]

PART 29—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1941

MISCELLANEOUS AMENDMENTS

On May 8, 1952, notice of proposed rule making was published in the FEDERAL REGISTER (17 F R. 4240) conforming Regulations 111 (26 CFR, Part 29) to section 208 (relating to treatment of certain redemptions of stock as dividends) and section 209 (relating to redemption of stock to pay death taxes) of the Revenue Act of 1950, approved September 23, 1950, and to section 320 of the Revenue Act of 1951, approved October 20, 1951. After consideration of all such relevant matter as was presented by interested persons relating to the rules proposed, the amendments to Regulations 111 set forth below are hereby adopted.

PARAGRAPH 1. There is inserted immediately preceding § 29.115-1 the following:

SEC. 208. TREATMENT OF CERTAIN REDEMPTIONS OF STOCK AS DIVIDENDS (REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950).

(a) *Amendment of section 115 (g).* Section 115 (g) (relating to redemption of stock) is hereby amended to read as follows:

(g) *Redemption of stock*—(1) *In general.* If a corporation cancels or redeems its stock

(whether or not such stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock, to the extent that it represents a distribution of earnings or profits accumulated after February 28, 1913, shall be treated as a taxable dividend.

(2) *Redemption through use of subsidiary corporation.* If stock of a corporation (hereinafter referred to as the issuing corporation) is acquired by another corporation (hereinafter referred to as the acquiring corporation) and the issuing corporation controls (directly or indirectly) the acquiring corporation, the amount paid for the acquisition of the stock shall constitute a taxable dividend from the issuing corporation to the extent that the amount paid for such stock would have been considered, under paragraph (1), as essentially equivalent to a taxable dividend if such amount had been distributed by the acquiring corporation to the issuing corporation and had been applied by the issuing corporation in redemption of its stock. For the purposes of this paragraph, control means the ownership of stock possessing at least 50 per centum of the total combined voting power of all classes of stock entitled to vote or at least 50 per centum of the total value of shares of all classes of stock of the corporation.

(b) *Effective date.* The amendment made by subsection (a) shall be applicable to taxable years ending after August 31, 1950, but shall apply only with respect to amounts received after such date.

SEC. 209. REDEMPTION OF STOCK TO PAY DEATH TAXES (REVENUE ACT OF 1950, APPROVED SEPTEMBER 23, 1950).

(a) *Certain distributions not treated as dividends.* Section 115 (g) (relating to redemptions of stock) is hereby amended by adding at the end thereof the following:

(3) *Redemption of stock to pay death taxes.* The provisions of this subsection shall not apply to such part of any amount so distributed with respect to stock the value of which is included in determining the value of the gross estate of a decedent in accordance with section 811, as is distributed after such decedent's death and within the period of limitations for the assessment of estate tax provided in section 874 (a) (determined without the application of section 875) or within 90 days after the expiration of such period, and as is not in excess of the estate, inheritance, legacy, and succession taxes (including any interest collected as a part of such taxes) imposed because of such decedent's death: *Provided,* That the value of the stock in such corporation for estate tax purposes comprises more than 50 per centum of the value of the net estate of such decedent.

(b) *Effective date.* The amendment made by subsection (a) shall be applicable to taxable years ending on or after the date of the enactment of this act, but shall apply only to amounts distributed on or after such date.

SEC. 320. REDEMPTION OF STOCK TO PAY DEATH TAXES (REVENUE ACT OF 1951, APPROVED OCTOBER 20, 1951).

(a) *Amendment of section 115 (g) (3).* Section 115 (g) (3) (relating to redemption of stock to pay death taxes) is hereby amended by striking out "50 per centum of the value of the net estate" and inserting in lieu thereof "35 per centum of the value of the gross estate"

(b) *Effective date.* The amendment made by subsection (a) shall be applicable to taxable years ending on or after the date of the enactment of this act, but shall apply only to amounts distributed on or after such date.

PAR. 2. Section 29.115-9 is amended as follows:

(A) By striking from the heading thereof "dividend" and by inserting in lieu thereof "*dividend—(a) In general.*" As so amended the heading of § 29.115-9 now reads:

§ 29.115-9 *Distribution in redemption or cancellation of stock taxable as dividend—(a) In general.*

(B) Section 29.115-9 is further amended by redesignating the present paragraph (a) as (a) (1) and the present paragraph (b) as (a) (2) and by adding new paragraphs (b) and (c) to read as follows:

(b) *Redemption of stock through use of subsidiary corporation.* (1) If stock of one corporation (hereinafter referred to as the "issuing corporation") is acquired from a share holder of such corporation by another corporation (hereinafter referred to as the "acquiring corporation") and if the issuing corporation controls, directly or indirectly, the acquiring corporation, the amount paid for such stock if received by the shareholder after August 31, 1950, may constitute a taxable dividend to such shareholder. For the purpose of this paragraph, the issuing corporation is deemed to control the acquiring corporation if it owns, directly or indirectly, stock possessing 50 percent or more of the total combined voting power of all classes of stock of the acquiring corporation entitled to vote or 50 percent or more of the total value of shares of all classes of stock of such corporation.

(2) Where stock of one corporation is acquired by another corporation and the issuing corporation controls the acquiring corporation, the amount paid for the stock shall be treated, under section 115 (g), as though such amount had first been distributed to the issuing corporation and immediately thereafter had been distributed by such corporation in redemption of such stock, to the shareholders from whom such stock was acquired. If and to the extent a distribution by the issuing corporation under such circumstances would be treated as essentially equivalent to the distribution of a taxable dividend under the principles of paragraph (a) of this section, the amount paid by the acquiring corporation shall be considered a dividend to the shareholder from the issuing corporation.

(c) *Redemption of stock to pay death taxes.* (1) Section 115 (g) (3) of the Internal Revenue Code provides that in certain cases a distribution in cancellation or redemption of stock, the value of which is included in determining the value of the gross estate of a decedent, shall not be treated as a dividend under section 115 (g). Section 115 (g) (3) is applicable only with respect to distributions in cancellation or redemption of stock made on or after September 23, 1950. In the case of such distributions made on or after September 23, 1950, and before October 20, 1951, section 115 (g) (3) applies only where the distribution is with respect to stock of a corporation the value of whose stock in the gross estate of the decendent, for the purpose of the Federal estate tax, is an amount in excess of 50 percent of the value of the net estate of such decedent. For the purpose of the preceding sentence the term "net estate of the decedent" means the net estate as computed for purposes of the additional estate tax imposed by section 935 of the Code. In the case of distributions made on or after October 20, 1951, section 115 (g) (3) applies only where the distribution is with respect to stock of a corporation the value of whose stock in the gross estate of the decedent for purposes of the Federal estate tax is an amount in excess of 35 percent of the gross estate of such decedent.

(2) For the purpose of section 115 (g) (3), the term "gross estate" means the gross estate as computed in accordance with section 811 of the Code. See §§ 81.10 to 81.28, inclusive, and 81.38 of this chapter.

(3) In determining whether the estate of the decedent is comprised of stock of a corporation of sufficient value to satisfy the percentage requirements of section 115 (g) (3) the total value, in aggregate, of all classes of stock of a corporation includible in the gross estate is taken into account. Thus, if the gross estate of the decedent, valued for purposes of the Federal estate tax at $1,000,000, includes common stock of Corporation A valued at $250,000, preferred stock of Corporation A valued at $110,000, preferred stock of Corporation B valued at $370,000, and common stock of Corporation C valued at $50,000, section 115 (g) (3) is applicable to distributions, after October 20, 1951, in cancellation or redemption of either common or preferred stock of Corporation A (comprising $360,000/$1,000,000 or 36 percent of the gross estate) or preferred stock of Corporation B, (comprising $370,000/$1,000,000 or 37 percent of the gross estate) but not to distributions in cancellation or redemption of stock of Corporation C (comprising only 5 percent of the gross estate)

(4) Section 115 (g) (3) applies to distributions made after the death of the decedent and prior to the expiration of the 3-year period of limitations for the assessment of estate tax provided in section 874 (a) (determined without the application of any provision of law extending or suspending the running of such period of limitations) or within 90 days after the expiration of such period. Since the period for assessment of estate tax prescribed in section 874 (a) is a period of three years after the filing of the estate tax return, section 115 (g) (3) applies only to distributions made not later than three years and 90 days after the filing of the estate tax return.

(5) While section 115 (g) (3) will most frequently have application in the case where stock is cancelled or redeemed from the executor or administrator of an estate, the section is also applicable to distributions in cancellation or redemption of stock included in the decedent's gross estate and held at the time of the

redemption by any person who acquired the stock by any of the means comprehended by the subdivisions of section 811, including the heir, legatee, or donee of the decedent, a surviving joint tenant, surviving spouse, appointee, or taker in default of appointment, or a trustee of a trust created by the decedent. Thus, section 115 (g) (3) may apply with respect to a distribution in cancellation or redemption of stock from a donee to whom the decedent has transferred stock in contemplation of death where the value of such stock is included in the decedent's gross estate under section 811 (c) (1) (A) Similarly, section 115 (g) (3) may apply to the redemption of stock from a beneficiary of the estate to whom an executor has distributed the stock pursuant to the terms of the will of the decedent. However, section 115 (g) (3) is not applicable to the case where stock is redeemed from a stockholder who has acquired the stock by gift or purchase from any person to whom such stock has passed from the decedent.

(6) The total application of section 115 (g) (3) with respect to stock included in the gross estate of any decedent can never exceed the amount of the estate, inheritance, legacy, and succession taxes (including any interest collected as a part of such taxes) imposed because of the decedent's death. In determining whether the total distributions in redemption of such stock made within the period of time prescribed in section 115 (g) (3) exceed the amount of such taxes and interest, account shall be taken of all such distributions without regard to whether any distribution would be treated as a dividend were it not for section 115 (g) (3)

(7) For the purpose of section 115 (g) (3), the Federal estate tax or any other estate, inheritance, legacy, or succession tax shall be ascertained after the allowance of any credit, relief, discount, refund, remission, or reduction of tax.

(3) The sole effect of section 115 (g) (3) is to exempt from tax as a dividend a distribution to which such section is applicable when made in redemption of stock includible in a decedent's gross estate. Such section does not, however, in any other manner affect the principles set forth in paragraph (a) of this section. Thus, if stock of a corporation is owned equally by A, B, and the C estate, and the corporation redeems one-half of the stock of each shareholder, the determination of whether the distributions to A and B are essentially equivalent to dividends shall be made without regard to the effect which section 115 (g) (3) may have upon the taxability of the distribution to the C estate.

(53 Stat. 32, 467; 26 U. S. C. 62, 3791)

[SEAL] O. GORDON DELK,
Acting Commissioner of Internal Revenue.

Approved: June 12, 1953.

M. B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 53-5406; Filed, June 17, 1953; 8:54 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter G—Procurement

PART 596—CONTRACT CLAUSES AND FORMS

SUBPART B—CLAUSES FOR COST-REIMBURSEMENT TYPE CONTRACTS

A new Subpart B containing §§ 596.-203–4 and 596.203–7 is hereby added to Part 596. The contract clauses set forth in §§ 596.203–4 and 596.203–7 have been approved for use in Department of the Army contracts by the Assistant Secretary of the Army (Materiel) The records clause in § 596.203–7 was approved by the Comptroller General in a letter to the Secretary of Defense April 7, 1953, B–100489. In granting this approval, the Comptroller General made the following qualifications:

The application of this clause shall be limited to those cost-type contracts for which the General Accounting Office has determined or subsequently determines to make a site audit. At present, these consist of contracts previously approved for site audits on an individual basis and contracts entered into after September 2, 1952, that are to be performed in the continental United States, Alaska, Hawaii, Puerto Rico, Virgin Islands, and Panama. The clause was not approved for use in contracts performed overseas.

If the new records clause (§ 596.203–7) is incorporated in an existing contract which does not provide for payment withholding provisions including execution of a final release, the period of records retention will be 10 years rather than the 6 years as provided for in the above noted Decision B–100489.

In the case of subcontracts, unless the terms of the contract provide otherwise, subcontractors are required to retain their records for a period of 3 years only following final payment under the subcontract. This same provision was made applicable to research and development cost-type prime contracts by Comptroller General Decision B–101404, 8 September 1952.

SUBPART B—CLAUSES FOR COST-REIMBURSEMENT TYPE CONTRACTS

Sec.
596.203–4 Allowable cost, fixed-fee and payment.
596.203–7 Records.

AUTHORITY: §§ 596.203–4 and 596.203–7 issued under R. S. 161; 5 U. S. C. 22. Interpret or apply 62 Stat. 21; 41 U. S. C. 151–161.

SOURCE: Proc. Cir. 14, June 2, 1953.

§ 596.203–4 *Allowable cost, fixed-fee and payment.*

ALLOWABLE COST, FIXED-FEE AND PAYMENT

(a) For the performance of this contract, the Government shall pay to the Contractor the cost thereof determined by _____ to be allowable in accordance with Part 2 of Section XV of the Armed Services Procurement Regulation as in effect on the date of this contract and the Schedule (hereinafter referred to as "Allowable Cost"), plus such fixed-fee, if any, as may be provided for in the Schedule.

(b) Once each month (or at more frequent intervals, if approved by _____) the Contractor may submit to an authorized representative of _____, in such form and reasonable detail as such representative may require, an invoice or public voucher supported by a statement of cost incurred by the Contractor in the performance of this contract and claimed to constitute Allowable Cost. Each statement of cost shall be certified by an officer or other responsible official of the Contractor authorized by it to certify such statements.

(c) As promptly as may be practicable after receipt of each invoice or voucher and statement of cost, the Government shall except as hereinafter provided and subject to the provisions of paragraph (d) of this clause make payment thereon as approved by _____. As the amounts payable on account of the fixed-fee accrue from time to time as set forth in the Schedule, fifteen percent (15%) of each such amount shall be withheld until a reserve of either (i) fifteen percent (15%) of the total fixed-fee or (ii) $100,000, whichever amount is less, shall have been set aside, such reserve or the balance thereof to be retained until the execution and delivery of a release by the Contractor as provided in paragraph (e) of this clause.

(d) At any time or times prior to final payment under this contract _____ may cause to be made such audit of the invoices or vouchers and statements of cost as shall be deemed necessary. Each payment theretofore made shall be subject to reduction to the extent of amounts included in the related invoice or voucher and statement of cost which are found by _____ on the basis of such audit not to constitute Allowable Cost, and shall also be subject to reduction for overpayments or to increase for underpayments on preceding invoices or vouchers. On receipt of the voucher or invoice designated by the Contractor as the "completion voucher" or "completion invoice" and statement of cost, which shall be submitted by the Contractor as promptly as may be practicable following completion of the work under this contract but in no event later than one (1) year (or such longer period as the Contracting Officer may, in his discretion, approve in writing) from the date of such completion, and following compliance by the Contractor with all provisions of this contract (including, without limitation, provisions relating to patents and the provisions of paragraphs (e) and (f) of this clause), the Government shall as promptly as may be practicable pay any balance of Allowable Cost.

(e) The Contractor and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract shall execute and deliver at the time of and as a condition precedent to final payment under this contract, a release discharging the Government, its officers, agents and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(1) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor.

(2) Claims together with reasonable expenses incident thereto, based upon the liabilities of the Contractor to third parties arising out of the performance of the contract, which are not known and by the exercise of due diligence could not have been known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than six (6) years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier.

(3) Claims for reimbursement of costs (other than expenses of the Contractor by

reason of its indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of the contract relating to patents.

(f) The Contractor agrees that any refunds, rebates or credits (including any interest thereon) accruing to or received by the Contractor or any assignee which arise out of the performance of this contract and on account of which the Contractor has received reimbursement shall be paid by the Contractor to the Government. The Contractor and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract shall execute and deliver at the time of and as a condition precedent to final payment under this contract, an assignment to the Government of refunds, rebates or credits (including any interest thereon) arising out of the performance of this contract in form and substance satisfactory to the Contracting Officer. Reasonable expenses incurred by the Contractor for the purpose of securing any such refunds, rebates or credits shall constitute Allowable Cost when approved by the Contracting Officer.

(g) Any cost incurred by the Contractor under the terms of this contract which would constitute Allowable Cost under the provisions of this clause shall be included in determining the amount payable under this contract, notwithstanding any provisions contained in the specifications or other documents incorporated in this contract by reference, designating services to be performed or materials to be furnished by the Contractor at its expense or without cost to the Government.

(h) Payments of the fixed fee shall be made to the Contractor as provided in the Schedule, subject, however, to the withholding provisions of paragraph (c) of this clause.

In the foregoing clause, insert, in contracts of the Department of the Army, the words "the Contracting Officer."

This clause may be varied in accordance with Department procedures by insertion in the Schedule of appropriate provisions relating to negotiated overhead rates.

In paragraph (c) of the foregoing clause, the percentages and amounts set forth therein may be varied in accordance with Department procedures.

In the case of cost-reimbursement type supply contracts without fee, delete paragraph (h) and insert the following sentence in lieu of the second sentence of paragraph (c) above: "After payment of eighty percent (80%) of the total estimated cost of performance of this contract, as from time to time amended, further payments on account of Allowable Cost shall be withheld until a reserve of either (i) one percent (1%) of such total estimated cost or (ii) $100,000 whichever shall be less, shall have been set aside, such reserve or the balance thereof to be retained until the execution and delivery of a release by the Contractor as provided in paragraph (e) hereof."

§ 596.203–7 *Records.*

RECORDS

(a) (1) The Contractor agrees to maintain books, records, documents and other evidence pertaining to the costs and expenses of this contract (hereinafter collectively called the "records") to the extent and in such detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies and services, and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this contract. The Contractor's accounting procedures and practices shall be subject to the approval of the Contracting Officer: *Provided, however,* That no material change will be required to be made in the Contractor's accounting procedures and practices if they conform to generally accepted accounting practices and if the costs properly applicable to this contract are readily ascertainable therefrom.

(2) The Contractor agrees to make available at the office of the Contractor at all reasonable times during the period set forth in subparagraph (4) below any of the records for inspection, audit or reproduction by any authorized representative of the Department or of the Comptroller General.

(3) In the event the Comptroller General or any of his duly authorized representatives determines that his audit of the amounts reimbursed under this contract as transportation charges will be made at a place other than the office of the Contractor, the Contractor agrees to deliver, with the reimbursement voucher covering such charges or as may be otherwise specified within two years after reimbursement of charges covered by any such voucher, to such representative as may be designated for that purpose through the Contracting Officer such documentary evidence in support of transportation costs as may be required by the Comptroller General or any of his duly authorized representatives.

(4) Except for documentary evidence delivered to the Government pursuant to subparagraph (3) above, the Contractor shall preserve and make available its records for a period of six years (unless a longer period of time is provided by applicable statute) from the date of the voucher or invoice submitted by the Contractor after the completion of the work under the contract and designated by the Contractor as the "completion voucher" or "completion invoice" or, in the event this contract has been completely terminated, from the date of the termination settlement agreement; Provided, However, that records which relate to (A) appeals under the clause of this contract entitled "Disputes," (B) litigation or the settlement of claims arising out of the performance of this contract, or (C) costs or expenses of the contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives shall be retained by the Contractor until such appeals, litigation, claims, or exceptions have been disposed of, but in no event for less than the six-year period mentioned above.

(5) Except for documentary evidence delivered pursuant to subparagraph (3) above, and the records described in the proviso of subparagraph (4) above, the Contractor may in fulfillment of its obligation to retain its records as required by this clause substitute photographs, microphotographs or other authentic reproductions of such records, after the expiration of two years following the last day of the month of reimbursement to the Contractor of the invoice or voucher to which such records relate, unless a shorter period is authorized by the Contracting Officer with the concurrence of the Comptroller General or his duly authorized representative.

(6) The provisions of this paragraph (a), including this subparagraph (6), shall be applicable to and included in each subcontract hereunder which is on a cost, cost-plus-a-fixed-fee, time-and-material or labor hour basis.

(b) The Contractor further agrees to include in each of his subcontracts hereunder, other than those set forth in subparagraph (a) (6) above, a provision to the effect that the subcontractor agrees that the Comptroller General or the Department, or any of their duly authorized representatives, shall, until the expiration of three years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor involving transactions related to the subcontract. The term "subcontract," as used in this paragraph (b) only, excludes (i) purchase orders not exceeding $1,000 and (ii) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

[SEAL] WM. E. BERGIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 53-5390; Filed, June 17, 1953; 8:50 a. m.]

Chapter XIV—The Renegotiation Board

Subchapter B—Renegotiation Board Regulations Under the 1951 Act

PART 1453—MANDATORY EXEMPTIONS FROM RENEGOTIATION

CONTRACTS AND SUBCONTRACTS FOR CERTAIN AGRICULTURAL COMMODITIES AND RAW MATERIALS

This part is amended by deleting in its entirety subparagraph (2) of § 1453.2 (a) *Agricultural commodities* and inserting in lieu thereof the following:

(2) *Interpretation of exemption.* The purpose of this provision is to exempt from renegotiation farmers, fruit growers, livestock raisers, fishermen, and other basic producers of agricultural commodities and those who trade in such products or store, handle, or transport such products without processing them before the acquisition of such products by a Department; it is not intended to exempt canners, manufacturers, and others who acquire such products and process them to a higher form or state, or those who store, handle, or transport such products pursuant to a prime contract with a Department. In order to qualify for exemption the product contracted for must be an agricultural commodity in its raw or natural state, or if such a commodity is not customarily sold or does not have an established market in its raw or natural state, in the first form or state beyond the raw or natural state in which it is customarily sold or in which it has an established market.

(Sec. 109, 65 Stat. 22; 50 U. S. C. App. Sup. 1219)

Dated: June 15, 1953.

NATHAN BASS,
Secretary.

[F. R. Doc. 53-5376; Filed, June 17, 1953; 8:48 a. m.]

PART 1457—FISCAL YEAR BASIS FOR RENEGOTIATION AND EXCEPTIONS

PART 1464—CONSOLIDATED RENEGOTIATION OF AFFILIATED GROUPS AND RELATED GROUPS

PROFIT OR LOSS IN OTHER YEARS: OVER-ALL LOSS OF CONSOLIDATED GROUP

1. Part 1457 is amended by deleting paragraph (b) of § 1457.8 *Profit or loss in other years* and inserting in lieu thereof the following:

(b) *Allowance of over-all loss of contractor.* Except as provided in this section, the contractor's profit or loss on

renegotiable business in years other than the one under review shall not be used as an offset or adjustment in the determination of excessive profits for the year under review. An over-all loss sustained by the contractor, in the performance of prime contracts and subcontracts subject to the act, in the fiscal year of such contractor immediately preceding the year under review, will be allowed as a cost in the renegotiation of such contractor in the year under review to the extent that such loss did not result from the gross inefficiency of such contractor, and if such loss was sustained in a year ending on or after January 1, 1951. In computing a loss in a preceding fiscal year, no amount of a loss sustained in a year before such preceding fiscal year may be considered. If an over-all loss was sustained by the contractor during a preceding fiscal year ended during 1950, in the performance of prime contracts and subcontracts renegotiable under any law, such loss is a factor which may be considered in determining the reasonableness of profits in the year under review to the extent that such loss did not result from the gross inefficiency of the contractor. Any prime contractor claiming allowance or consideration for a loss suffered in a preceding fiscal year must show that it has reasonably pursued all remedies afforded by any agency of the Government for obtaining relief from such loss.

(c) *Proration of allowance among fiscal years.* When the twelve months immediately following the close of the fiscal year in which an over-all loss was sustained are included in more than one successive fiscal year of the contractor, such loss will be prorated over such twelve months and a prorata share of such loss will be allowed as a cost in each of such fiscal years which includes any part of such twelve months if, in the opinion of the Board, the allowance of such cost in more than one such fiscal year is necessary to avoid inequity and undue hardship.

(d) *Allowance upon acquisition of business.* When a contractor acquires the business of another contractor within twelve (12) months after the close of a fiscal year in which such other contractor sustained an over-all loss, the acquiring contractor will be allowed to charge such loss as a cost if, in the opinion of the Board, such allowance is necessary to avoid inequity and undue hardship. Acquisitions within the scope of this paragraph include those effected by inheritance, transfer or exchange, either inter vivos or by operation of law, including transfer or exchange of physical assets or of rights of ownership. The principles of paragraph (c) of this section will be applied in an equitable manner in prorating the amount of any such loss between the contractor which sustained the loss and the acquiring contractor. In determining whether the acquiring contractor would suffer inequity and undue hardship in the case of acquisitions other than by inheritance or by operation of law, the primary consideration will be whether, during the fiscal year with respect to which such cost is claimed, the acquiring contractor is owned, directly or indirectly, by the same individual or substantially the same individuals who, as shareholders, partners or otherwise, owned such other contractor during the fiscal year in which the over-all loss was sustained.

(e) *Over-all loss of consolidated group.* For the treatment of an over-all loss sustained by a contractor in the fiscal year preceding the year under review, when such contractor was a member of a consolidated group in such preceding fiscal year or is a member of a consolidated group in the year under review, see § 1464.12 of this subchapter.

2. Part 1464 is amended by adding a new § 1464.12 to read as follows:

§ 1464.12 *Over-all loss of consolidated group*—(a) *Scope and effect of section.* This section explains how an over-all loss sustained by a contractor in the fiscal year preceding the year under review will be treated pursuant to section 103 (f) of the act when such contractor (1) was a member of a consolidated group in such preceding fiscal year, or (2) is a member of a consolidated group in the year under review.

(b) *Definitions.* As used in this section:

(1) The term "consolidated group" means an affiliated or related group which makes a request for consolidation which is not disapproved.

(2) The term "over-all loss" means an over-all loss sustained by a contractor in the preceding fiscal year which would be allowed to such contractor as a cost in the year under review pursuant to § 1457.8 of this subchapter, if such contractor were not a member of a consolidated group in either of such years.

(3) The term "consolidated over-all loss" means the amount by which the aggregate costs paid or incurred by the members of a consolidated group exceed the aggregate receipts or accruals of such group in a fiscal year.

(4) The term "loss member" means a contractor which has sustained an over-all loss for a fiscal year in which it is a member of a group that has sustained a consolidated over-all loss.

(c) *Allowance to contractor who was a loss member of a consolidated group in preceding fiscal year* If a contractor was the sole loss member of a consolidated group in the preceding fiscal year, the amount of the consolidated over-all loss sustained by such group will be allowed to such contractor as a cost in the fiscal year under review. If such group included more than one loss member, the consolidated over-all loss will be allocated among such loss members in proportion to the amount of the over-all loss sustained by each, and the share so allocated to each loss member will be allowed to such loss member as a cost in the fiscal year under review.

Example. In 1951, A, B, and C were members of a consolidated group. A realized renegotiable profits of $240,000; B sustained an over-all loss of $200,000; and C sustained an over-all loss of $100,000. The consolidated over-all loss of the group was $60,000. If B and C were renegotiated separately in 1952, $40,000 would be allowed as a cost to B and $20,000 to C.

No amount of a consolidated over-all loss will be allowed (1) if and to the extent that such loss resulted from gross inefficiency of any member of the consolidated group; (2) if such loss was sustained in a fiscal year ending before January 1, 1951, and (3) unless it is shown that any members of such group who were prime contractors have reasonably pursued all remedies afforded by any agency of the Government for obtaining relief from such loss or any portion thereof. If any loss member is again a member of a consolidated group in the fiscal year under review, the amount of loss allowable to such contractor as a member of such consolidated group is governed by the provisions of paragraph (d) of this section.

(d) *Allowance to consolidated group of losses sustained by its members in preceding fiscal year*—(1) *When members were identical group in preceding year* If the members of a consolidated group constituted in the preceding fiscal year a consolidated group of identical membership and sustained a consolidated over-all loss in such year, the amount of such consolidated over-all loss will be allowed to such group as a cost in the fiscal year under review.

(2) *When members were separate or in different groups in preceding year* If the members of a consolidated group did not constitute in the preceding fiscal year a consolidated group of identical membership, and if any members of such group sustained over-all losses in such year, the amount allowable to any member pursuant to the provisions of paragraph (c) of this section or § 1457.8 (b) of this subchapter will be allowed to such group as a cost in the fiscal year under review, but the aggregate amount so allowed will be limited to the amount, if any which would have been the consolidated over-all loss of such group had the members thereof constituted a consolidated group of identical membership in the preceding fiscal year. In computing such amount, if any member of a consolidated group was not a renegotiable contractor in the preceding fiscal year, but has succeeded to the business of a renegotiable contractor and was owned during the fiscal year under review by the same individual or substantially the same individuals who owned such predecessor in the preceding fiscal year, the receipts or accruals and costs of such predecessor will be included in the computation. The following examples illustrate how this limitation is computed and applied:

(i) *Members were all separate in preceding year* In 1951, A, B and C were not members of a consolidated group. A realized renegotiable profits of $240,000; B sustained an over-all loss of $200,000; and C sustained an over-all loss of $100,000. If B and C were renegotiated separately in 1952, $200,000 would be allowed as a cost to B and $100,000 to C. However, A, B and C are a consolidated group in 1952. If they had constituted a consolidated group of identical membership in 1951, the consolidated over-all loss of the group would have been only $60,000. It is this amount of $60,000, and not the aggregate

of $300,000 of over-all losses sustained by B and C, which will be allowed as a cost to the consolidated group in 1952.

(ii) *Members were in different groups in preceding year* In 1951, A, B and C were members of a consolidated group, and D and E were members of another consolidated group. Their renegotiable profits and losses were as follows: A, plus $240,000; B, minus $200,000; C, minus $100,000; D, plus $100,000; and E, minus $150,000. The consolidated over-all loss of A, B and C was $60,000, allocable $40,000 to B and $20,000 to C. The consolidated over-all loss of D and E was $50,000, allocable entirely to E. In 1952, A, B, D and E form a consolidated group, without C. If A, B, D and E had constituted a consolidated group of identical membership in 1951, the consolidated over-all loss of the group would have been only $10,000. Although the allocable shares of B and E as shown above aggregate $90,000, the amount allowable to the consolidated group in 1952 is limited to $10,000. The $20,000 allocable to C is allowable to C in that amount in 1952, irrespective of whether C is renegotiated separately in 1952 or as a member of a different group.

(iii) *Some members were separate and others were in different group in preceding year* (*a*) In 1951, A (minus $500,000), B (plus $100,000) and C (plus $300,000) were members of a consolidated group. The consolidated over-all loss of A, B and C was $100,000, allocable entirely to A. D (plus $200,000) was renegotiated separately and made a renegotiable refund for such year in the amount of $30,000, retaining $170,000 after renegotiation. E, a partnership (plus $40,000) was also renegotiated separately. Effective January 1, 1952, the partners dissolved E and formed a corporation EE, which continued the partnership business.

(*b*) In a 1952 group composed of A, B, C and D, no amount of loss would be allowed as a cost to the group because A, B, C and D as a group in 1951 would have realized a group profit of $70,000. In making this computation, D's receipts or accruals were reduced by its $30,000 renegotiation refund.

(*c*) In a 1952 group composed of A, B and D, the full amount of the $100,000 consolidated over-all loss allocable to A would be allowed to the group because the consolidated over-all loss of A, B and D as a group in 1951 would have been greater, namely $230,000.

(d) In a 1952 group composed of A, B, C, and EE, their consolidated over-all loss as a group in 1951 would have been $60,000, hence that amount would be allowed as a cost to the group.

(e) *Proration of allowance among fiscal years and allowance upon acquisition of business.* The provisions of § 1457.8 (c) and (d) of this subchapter shall apply to the allowance of losses under this section.

(f) *Withdrawal from consolidated renegotiation.* If an affiliated or related group which has filed a request for consolidated renegotiation for any fiscal year believes that renegotiation on a consolidated basis for such year would be disadvantageous to it in view of the provisions of this section, such request may be withdrawn in the manner prescribed in this paragraph. Such request may be withdrawn by the filing with the Board not later than Sept. 1, 1953 of (1) a notice withdrawing such request and all Standard Forms of Contractor's Report theretofore filed by or on behalf of the members of such group for such fiscal year, such notice to be executed by all of the contractors which executed such request; and (2) a new Standard Form of Contractor's Report for each such contractor, the filing of which shall be considered for the purposes of § 1465.2 of this subchapter to be the filing of the financial statement required under section 105 (e) (1) of the act for such fiscal year. Such a withdrawal will be accepted after Sept. 1, 1953 if the Board considers that the conduct of renegotiation proceedings would not be hampered or delayed. At the time of filing such a withdrawal, a new request for consolidated renegotiation as a related group may be filed by any of such contractors, in which event the members of such related group may satisfy the requirements of this paragraph for the filing of new Standard Forms of Contractor's Report by filing with such request a consolidated Standard Form of Contractor's Report as provided in § 1470.3 (h) of this subchapter.

(Secs. 103, 109, 65 Stat. 8, 22; 50 U. S. C. App. Sup. 1213, 1219)

Dated: June 15, 1953.

NATHAN BASS,
Secretary.

[F. R. Doc. 53-5377; Filed, June 17, 1953; 8:48 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter XXI—Office of Rent Stabilization, Economic Stabilization Agency

[Rent Regulation 1, Amdt. 146 to Schedule A]

[Rent Regulation 2, Amdt. 144 to Schedule A]

RR 1—HOUSING

RR 2—ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

SCHEDULE A—DEFENSE-RENTAL AREAS

CERTAIN STATES

Effective June 18, 1953, Rent Regulation 1 and Rent Regulation 2 are amended as set forth below.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1834)

Issued this 15th day of June 1953.

GLENWOOD J. SHERRARD,
Director of Rent Stabilization.

1. Item 190a of Schedule A of Rent Regulation 1 is amended to read as follows:

State and name of defense-rental area	Class	County or counties in defense-rental area under regulation	Maximum rent date	Effective date of regulation
New Jersey				
(190a) Mount Holly-Lakehurst.	B	BURLINGTON COUNTY, except the townships of Bass River, Medford, New Hanover, Pemberton, Shamong, Tabernacle, Washington, and Woodland, the borough of Medford Lakes in Medford Township and the borough of Pemberton.	Mar. 1, 1942	July 1, 1942
	B	In OCEAN COUNTY, the townships of Berkeley, Brick, Dover, Jackson, Lakewood, Manchester, and Plumsted, and the boroughs of Beachwood, Island Heights, Lakehurst, Ocean Gate, Pine Beach, and South Toms River.	Feb. 1, 1941	Apr. 1, 1945
	C	BURLINGTON COUNTY, except the townships of Bass River, Medford, New Hanover, Pemberton, Shamong, Tabernacle, Washington, and Woodland, the borough of Medford Lakes in Medford Township and the borough of Pemberton; in OCEAN COUNTY, the townships of Berkeley, Brick, Dover, Jackson, Lakewood, Manchester, and Plumsted, and the boroughs of Beachwood, Island Heights, Lakehurst, Ocean Gate, Pine Beach, and South Toms River.	Aug. 1, 1950	Nov. 7, 1951

2. Item 190a of Schedule A of Rent Regulation 2 is amended to read as follows:

State and name of defense-rental area	Class	County or counties in defense-rental area under regulation	Maximum rent date	Effective date of regulation
New Jersey				
(190a) Mount Holly-Lakehurst.	B	BURLINGTON COUNTY, except the townships of Bass River, Medford, New Hanover, Pemberton, Shamong, Tabernacle, Washington, and Woodland, the borough of Medford Lakes in Medford Township, and the borough of Pemberton.	Mar. 1, 1942	July 1, 1942
	C	do	Aug. 1, 1950	Nov. 7, 1951
	A	In OCEAN COUNTY, the townships of Berkeley, Brick, Dover, Jackson, Lakewood, Manchester, and Plumsted, and the boroughs of Beachwood, Island Heights, Lakehurst, Ocean Gate, Pine Beach, and South Toms River.	do	Do.

3. Items 85a, 88e, and 227 of Schedules A of Rent Regulation 1 and Rent Regulation 2 are amended to read as follows:

State and name of defense-rental area	Class	County or counties in defense-rental area under regulation	Maximum rent date	Effective date of regulation
Illinois				
(85a)	------	[Revoked and decontrolled.]		
(88e) Lake County	B	LAKE COUNTY, except the cities of Highland Park, Highwood, Lake Forest, and Zion, the villages of Deerfield, Grayslake, Lake Bluff, Libertyville, and that portion of the village of Harrington located therein.	Mar. 1, 1942	July 1, 1942
	C	----do----	Aug. 1, 1952	Jan. 6, 1953
	A	In LAKE COUNTY, the villages of Deerfield and Grayslake.	----do----	Do.
Ohio				
(227) Cincinnati	B	In Ohio: in BUTLER COUNTY, the city of Hamilton, the villages of Jacksonburg, New Miami, and Seven Mile; in CLERMONT COUNTY, the villages of Amelia and Bethel; in HAMILTON COUNTY, the cities of Lincoln Heights and St. Bernard, and the villages of Addyston, Mariemont, Sharonville, and Terrace Park.	Mar. 1, 1942	Nov. 1, 1942
	B	In Kentucky: in CAMPBELL COUNTY, the city of Dayton; in KENTON COUNTY, the cities of Edgewood, Ludlow, and Winston Park.	----do----	Do.

These amendments decontrol the following based on a resolution submitted under section 204 (j) (3) of the act:

The Village of Libertyville in Lake County, Illinois, a portion of the Lake County Defense-Rental Area; and

The City of Reading in Hamilton County, Ohio, a portion of Cincinnati Defense-Rental Area.

These amendments also decontrol the following on the initiative of the Director of Rent Stabilization under section 204 (c) of the act:

The Freeport Defense-Rental Area in the State of Illinois;

The Township of Pemberton in Burlington County, New Jersey, a portion of the Mount Holly-Lakehurst Defense-Rental Area; and

The City of Bellevue in Campbell County, Kentucky, a portion of the Cincinnati Defense-Rental Area.

[F. R. Doc. 53-5401; Filed, June 17, 1953; 8:53 a. m.]

[Rent Regulation 3, Amdt. 138 to Schedule A]

[Rent Regulation 4, Amdt. 81 to Schedule A]

RR 3—HOTELS

RR 4—MOTOR COURTS

SCHEDULE A—DEFENSE-RENTAL AREAS

ILLINOIS AND NEW JERSEY

Effective June 18, 1953, Rent Regulation 3 and Rent Regulation 4 are amended so that the items indicated below of Schedules A read as set forth below.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1894)

Issued this 15th day of June 1953.

GLENWOOD J. SHERRARD,
Director of Rent Stabilization.

Name of defense-rental area	State	County or counties in defense-rental area under regulation	Maximum rent date	Effective date of regulation
(88e) Lake County	Illinois	LAKE COUNTY, except the cities of Highland Park, Highwood, Lake Forest, and Zion, the villages of Lake Bluff and Libertyville and that portion of the village of Barrington located therein.	Aug. 1, 1952	Jan. 6, 1953
(190a) Mount Holly-Lakehurst	New Jersey	BURLINGTON COUNTY, except the borough of Medford Lakes in Medford Township, the borough of Pemberton, and the townships of Bass River, Medford, New Hanover, Pemberton, Shamong, Tabernacle, Washington, and Woodland; and in OCEAN COUNTY, the townships of Berkeley, Brick, Dover, Jackson, Lakewood, Manchester, and Plumsted, and the boroughs of Beachwood, Island Heights, Lakehurst, Ocean Gate, Pine Beach, and South Toms River.	Aug. 1, 1950	Nov. 7, 1951

These amendments decontrol the following based on a resolution submitted under section 204 (j) (3) of the act:

The Village of Libertyville in Lake County, Illinois, a portion of the Lake County Defense-Rental Area.

These amendments also decontrol the following on the initiative of the Director of Rent Stabilization under section 204 (c) of the act:

The Township of Pemberton in Burlington County, New Jersey, a portion of the Mount Holly-Lakehurst Defense-Rental Area.

[F. R. Doc. 53-5400; Filed, June 17, 1953; 8:53 a. m.]

TITLE 36—PARKS, FORESTS, AND MEMORIALS

Chapter II—Forest Service, Department of Agriculture

[Reg. U-14, Amdt.]

PART 251—LAND USES

PERMITS FOR ROADS AND TRAILS

By virtue of the authority vested in the Secretary of Agriculture, Regulation U-14 of the rules and regulations governing the occupancy, use, protection and administration of the national forests, which constitutes § 251.5, Part 251, Chapter II, Title 36, Code of Federal Regulations, is hereby amended.

1. Paragraph (c) of § 251.5 is amended to read as follows:

(c) Except (1) as provided in paragraph (b) of this section, (2) where there is a statutory right of ingress and egress, or (3) where road construction is specifically authorized in connection with an authorized use of national forest land, no highway or road shall be constructed on national forest land unless or until the occupancy of said land for highway or road purposes shall have been authorized by permit. Application for permit to construct a highway or road, and application for recognition of a right to construct or use a road for ingress and egress to and from privately owned property within the exterior boundaries of a national forest reserved from the public domain, shall be filed with the forest supervisor and shall be accompanied by a plat showing the precise location of the proposed highway or road. The forest supervisor shall then determine the effect of the proposed highway or road on the national forest and the changes in location or other features that may be necessary to safeguard the national forest, recording his findings in appropriate form and manner. Permits for State and county highways or roads of similar importance shall be issued by the regional forester. Forest supervisors may be authorized by the regional forester to issue permits for roads of lesser importance within such limitations as the regional forester may prescribe.

2. Paragraphs designated (d), (e) and (f) of § 251.5 are redesignated (e), (f) and (g) respectively, and a new paragraph (d) is inserted as follows:

(d) The right to construct or use roads on national forest land for purposes of ingress and egress to and from privately owned property within the exterior boundaries of a national forest reserved from the public domain will be recognized when (1) the applicant is the owner of such property, (2) a roadway across such national forest land is necessary to enable the applicant to reach or utilize his property therein, and (3) the construction and use of the roadway is in accordance with the rules and regulations governing the occupancy, use and preservation of the national forests. Recognition of each such right will be evidenced by a statement entitled "Stipulations Governing the Exercise of Ingress and Egress Rights," which shall set

forth the conditions, as prescribed by the Chief, Forest Service, under which the right may be exercised in keeping with the above referred to rules and regulations governing the occupancy, use and preservation of the national forests. The Stipulations Governing the Exercise of Ingress and Egress Rights may be issued by the regional forester or, when designated by him, the forest supervisor.

(Sec. 1, 30 Stat. 35, as amended; 16 U. S. C. 551. Interprets or applies sec. 1, 33 Stat. 628; 16 U. S. C. 472)

Done at Washington, D. C. this 15th day of June 1953.

[SEAL] J. EARL COKE,
Acting Secretary of Agriculture.

[F. R. Doc. 53-5409; Filed, June 17, 1953; 8:54 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 4—DEPENDENTS AND BENEFICIARIES CLAIMS

MISCELLANEOUS AMENDMENTS

1. In § 4.51, paragraph (d) (1) is amended to read as follows:

§ 4.51 *Concurrent payment of two benefits to the same person.* * * *

(d) *Employees compensation.* (1) Where a person is entitled to compensation from the Bureau of Employees' Compensation based upon death due to service in the Armed Forces and is also entitled based upon the same death to compensation or pension under the laws administered by the Veterans' Administration, he shall elect which benefit he shall receive. Compensation or pension may not be paid in such instances by the Veterans' Administration concurrently with compensation from the Bureau of Employees' Compensation. Election by a widow controls the rights of any of the veteran's children regardless of whether they are in the widow's custody and regardless of the fact that such children may not be eligible to receive benefits under the laws administered by the Bureau of Employees' Compensation, Department of Labor. Except as to claims based on service in the Public Health Service, election to receive benefits from the Bureau of Employees' Compensation does not preclude the allowance of death compensation by the Veterans' Administration upon receipt of a reelection. The provisions of this paragraph are not applicable where the benefit paid by the Bureau of Employees' Compensation is for death resulting from civilian employment; however, where the death cause, held by the Bureau of Employees' Compensation to have been incurred in civilian employment, is also the basis of an award of death compensation by the Veterans' Administration predicated on death due to military service, the Bureau of Employees' Compensation will be notified of the award of death compensation and they will discontinue payment of their benefit, as they hold the two findings to be incompatible.

* * * * *

2. In § 4.77, paragraph (b) is amended to read as follows:

§ 4.77 *Death pension or compensation payable solely by virtue of certain amendatory laws.* * * *

(b) *Reservists, Public Health Service and National Guardsmen—(1) Part I and Part II, Veterans Regulation 1 (a), as amended (38 U. S. C. ch 12), Reservists and Public Health Service.* Except as provided in subparagraph (2) of this paragraph, where payments have been made by the Bureau of Employees' Compensation, Department of Labor, based on service in the Reserves or Public Health Service and the claimant has elected to receive death compensation from the Veterans' Administration, the commencing date of an award which is payable under the provisions of Part I or Part II, Veterans Regulation 1 (a), as amended, shall be the date specified by the applicable law, but in no event prior to the day following the date of last payment by the Bureau of Employees' Compensation. (See § 3.1 (l) of this chapter and § 4.51 (d).)

(2) *Public Law 108, 81st Congress; Reservists and National Guardsmen.* Where death occurred on or after June 20, 1949, the date of commencement of original awards of death compensation payable solely as a result of the provisions of Public Law 108, 81st Congress (act of June 20, 1949), shall be the day following the date of death or June 20, 1949) whichever is the later, if application is filed within 1 year after the date of death; otherwise from the date of filing application, but in no event prior to June 20, 1949. A claim pending on June 20, 1949, shall be considered a claim under this law. Where death occurred prior to June 20, 1949 (including instances where death occurred prior to August 14, 1945) the date of commencement of such awards shall be the day following the date of death or August 14, 1945, whichever is the later, without regard to the date of filing application. The amount of any benefits which may have been paid by the Veterans' Administration or Bureau of Employees' Compensation shall be subtracted from any compensation which may be payable under this law.

* * * * *

3. In § 4.91, paragraphs (b) (1) and (c) (2) are amended to read as follows:

§ 4.91 *Apportionment.* * * *

(b) *Effective dates of apportionment.* (1) The effective date of the apportionment will be the first day of the month (in cases involving one or more payees residing in the Philippines, the first day of the second month) next succeeding that in which notice was received in the Veterans' Administration that the child or children are not in the actual or constructive care and custody of the widow: *Provided,* That where prior to the initial award to the widow the lack of custody in the widow is shown, the compensation or pension will be apportioned in accordance with the facts found for all periods affected: *Provided,* That where there was a running award on October 17, 1940, under the laws granting pensions to dependents of persons who served prior to April 21, 1898, or under laws reenacted by Public No. 269, 74th Congress, the notice referred to in this subparagraph must be received in the Veterans' Administration subsequent to October 17, 1940: *Provided further,* That pension payable under such laws shall not, in any event, be apportioned for any period prior to October 17, 1940.

* * * * *

(c) *Rates payable.* * * *

(2) *Rate for additional beneficiary.* In any case wherein death compensation or pension is being currently paid and claim is filed by or for an additional dependent of the veteran, who is entitled to an apportioned share, no reduction will be made in the current award for any period prior to the first of the month (in cases involving one or more payees residing in the Philippines, the first day of the second month) next succeeding that in which the changed award is approved. The amount payable during such period to or for the additional dependent will be the difference between the amount of compensation or pension currently being paid and the total amount payable by reason of including the additional dependent. On and after the first day of the month (in cases involving residence in the Philippines, the first day of the second month) next succeeding that in which the changed award is approved the total amount of compensation or pension will be apportioned as provided in subparagraph (1) of this paragraph.

* * * * *

4. In § 4.93, paragraph (b) is amended to read as follows:

§ 4.93 *Awards where all beneficiaries do not file a claim on the same date; fractions of one cent; awards to minor widows.* * * *

(b) *Compensation of rate for additional beneficiary.* In any case wherein death compensation or pension is being currently paid and claim is filed by or for an additional dependent, a retroactive adjustment in the current award will be made, provided no overpayment will result. If an overpayment would result, the current award will be reduced as of the first of the month (in cases involving one or more payees residing in the Philippines, the first of the second month) next succeeding that in which the changed award is approved, and the amount payable prior to the date of reduction to or for such additional dependent will be the difference between the amount of compensation or pension currently being paid and the total amount payable by reason of including the additional dependent. On and after the first day of the month (in cases involving residence in the Philippines, the first of the second month) next succeeding that in which the changed award is approved, the additional dependent will be entitled to his full share. (For apportioned awards, see § 4.91 (c) (2).)

* * * * *

(Sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016, sec. 7, 43 Stat. 9; 33 U. S. C. 11a, 429, 707)

This regulation is effective June 18, 1953.

[SEAL] H. V. STIRLING,
Deputy Administrator

[F. R. Doc. 53-5356; Filed, June 17, 1953; 8:45 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 127—INTERNATIONAL POSTAL SERVICE: POSTAGE RATES, SERVICE AVAILABLE, AND INSTRUCTIONS FOR MAILING

CANADA (INCLUDING NEWFOUNDLAND AND LABRADOR) & VENEZUELA

a. In § 127.227 *Canada (including Newfoundland and Labrador)* amend paragraph (b) (6) by the addition of the following subdivision:

(vii) Uncooked pork, including ham, and all uncooked pork products.

b. In § 127.376 *Venezuela* amend subdivision (i) of paragraph (a) (10) to read as follows:

(i) (*a*) Coins, unless sent for collections in which event the customs declaration shall be marked "Objetos para fines numismaticos" (Articles for numismatic purposes)

(*b*) Banknotes, paper money, or any instruments of value payable to bearer; manufactured or unmanufactured platinum, gold or silver; precious stones, jewelry, or other precious articles.

(R. S. 161, 396, 398; secs. 304, 309, 42 Stat. 24, 25, 48 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL] ROSS RIZLEY,
Solicitor

[F. R. Doc. 53-5367; Filed, June 17, 1953; 8:46 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 897]

ALASKA

PARTIAL REVOCATION OF EXECUTIVE ORDER NO. 2319 OF FEBRUARY 16, 1916, RAILROAD AND TOWNSITE WITHDRAWAL NO. 9

By virtue of the authority vested in the President by section 1 of the act of March 12, 1914 (38 Stat. 305; 48 U. S. C. 303) and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F. R. 4831), it is ordered as follows:

Executive Order No. 2319 of February 16, 1916, reserving certain public lands in Alaska for railroad, townsite, and other purposes in connection with the construction and operation of railroad lines under said act of March 12, 1914, is hereby revoked so far as it affects the following-described lands at Chickaloon reserved for railroad purposes by said order:

SEWARD MERIDIAN

T. 20 N., R. 5 E.,
Sec. 36, lot 3.

The tract described contains 22.31 acres.

Effective on the date of this order, the above-described land becomes subject to the reservation for the support of common schools in Alaska made by the act of March 4, 1915, as amended by the act of March 5, 1952 (38 Stat. 1214, 66 Stat. 14; 48 U. S. C. A., 1952 ed. 353)

The above-described tract is subject to the right-of-way for the Glenn Highway reserved by Public Land Order No. 757 of October 16, 1951.

ORME LEWIS,
Acting Secretary of the Interior

JUNE 12, 1953.

[F. R. Doc. 53-5363; Filed, June 17, 1953; 8:45 a. m.]

TITLE 47—TELECOMMUNICATIONS

Chapter I—Federal Communications Commission

[Docket No. 10353]

PART 3—RADIO BROADCAST SERVICES

SPECIFIC REQUIREMENT FOR ATTENUATION OF SPURIOUS EMISSIONS FROM TELEVISION TRANSMITTERS

In the matter of amendment of § 3.687 (i) (1) of the Commission's rules governing Television Broadcasting Stations; Docket No. 10353.

1. The Commission has before it for consideration its notice of proposed rule making issued in the above-entitled matter on November 28, 1952 (FCC 52-1543) proposing to amend § 3.687 (i) (1) of the Commission's rules and regulations by the inclusion of a specific requirement for the attenuation of spurious emissions from television transmitters. The subject notice provided that comments must be filed by January 12, 1953. Subsequently, the time for filing such comments was extended to April 13, 1953. Timely comments have been filed by The Radio-Television Manufacturers Association (RTMA) and The Chronicle Publishing Company.

2. The Radio-Television Manufacturers Association filed a comment in this proceeding noting that it recognized the seriousness of the problem presented by spurious emissions and indicating that it had no objection to the adoption of the proposed amendment. RTMA, however, requests that the amendment be made effective not less than one year from the date of its adoption.

3. In support of its request, RTMA states that on May 27, 1952, its Subcommittee on Television Broadcast transmitters issued a report indicating that in view of the product design and production cycles of harmonic filters, a realistic date for compliance with a rule such as that now proposed would be one year after its adoption. RTMA adds that on December 16, 1952, representatives of the major transmitter manufacturers reviewed the problem in light of development work conducted since last May. Low-pass filters covering second and higher harmonics, it was recognized, would be required for compliance with the Commission's proposed amendment. It was further recognized that in cases of interference, narrow band, second harmonic filters could be supplied "with a minimum of delay." The following schedule was established "as being the best the industry can meet in view of engineering development time and the procurement and manufacturing cycles"·

Second Harmonic only· Channels 5, 2, and 3, 3 months.
Second Harmonic only: Channels 4 to 6, 4 months.
Low-Pass: Channels 2 to 6, 8 months.
Low-Pass: Channels 7 to 13, 11 months.
Low-Pass: Channels 14 to 83, 12 months.

RTMA adds that at the end of the elapsed time indicated in the above schedule, shipments could begin, both for new transmitters and for additions to existing installations. RTMA represents that prior to this date, every effort would be made to remedy any actual cases of interferences which may arise.

4. The Commission is of the view that the effective date suggested by RTMA for the proposed amendment would be reasonable in so far as existing stations are concerned. Accordingly, unless actual interference is caused by the lack of spurious emission attenuation, the requirements of the subject amendment will not become effective for authorized stations until one year from the date of its adoption. However, the Commission believes it would be undesirable to permit additional stations to commence operation without adequate suppression of spurious emissions. Manufacturers have been on notice of the need for such suppression since last November when the subject notice was issued and should by this date have their filter designs and manufacturing schedules more complete than those existing at the time the RTMA comment was prepared. Therefore, new stations authorized after the effective date of this amendment will not be permitted to commence operation unless they meet the attenuation figure specified by the rule.

5. It should be noted, in this regard, that the existing requirements of § 3.687 specify that "Spurious emissions, including radio frequency harmonics, shall be maintained at as low a level as the state of the art permits" The state of the art is such that 60 db suppression can now be obtained with a reasonable investment. Transmitters above 600 watts input power in other services are required to suppress spurious emissions by at least 80 db. And, as the subject notice of proposed rule making indicated, the 60 db value for television transmitters specified in the amendment should be considered only as a temporary requirement which may be increased at a later date, especially when more higher-powered equipment is utilized. For example, with stations operating at 1000 kw power, the maximum power presently specified for UHF, the 60 db value could result in a maximum of 1 watt power on other frequencies possibly causing severe interference to services using such frequencies. For a 100 kw station, the spurious power could be as high as 0.1 watt. While these values appear small, they

should be compared with the value of 400 micromicrowatts required to prevent the detection of shipboard receiving equipment at a distance of one mile, a value in the order of one billionth of that which would be radiated by a television station under the 60 db attenuation requirement specified by this amendment. In light of the very probable need for even greater attenuation in the future, as indicated above, a footnote is being added to the subject amendment advising that the 60 db value is temporary and that, accordingly, stations should give consideration to the installation of equipment with greater attenuation than that now required.

6. The Chronicle Publishing Company in its comment states that it has no objection to the purpose of the proposed amendment to restrict spurious emissions so that they should be maintained at as low a level as the state of the art permits. Chronicle urges, however, that "no final arbitrary limitations [should be] imposed at this time because they may prove to be unreasonable under certain circumstances." Chronicle feels that adoption of an "arbitrary limitation" now might place an unnecessary burden on the broadcaster. Chronicle also contends that the proposed provision that "in the event of interference caused to any service, greater attenuation will be required" would be proper only "if the other service so aggrieved shares the burden with the broadcaster in those circumstances where it can be shown that a reasonable doubt exists with respect to the selectivity of equipment used by the other service."

7. The Commission does not believe that the adoption of the 60 db figure at this time would be unreasonable because at some future date a greater attenuation value may be required. In light of the serious nature of the problem, the Commission must act in accordance with the present state of the art. Further, as indicated above, a footnote is being added to the rule noting that the 60 db value is temporary and that stations should consider installations maintaining greater attenuation. With respect to Chronicle's contentions that other services should share the burden of correcting interference when a reasonable doubt exists with respect to the selectivity of the equipment used by such services, it should be understood that the Commission does not expect television stations to correct interference resulting from unselective equipment of the other services. If the interference results from the use of defective receiving equipment, the interference should be corrected by the organization using such equipment.

8. In view of the foregoing, *it is ordered*, That effective July 1, 1953, § 3.687 (i) (1) is amended as set out below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Adopted: June 10, 1953.

Released: June 11, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

Section 3.687 (i) (1) of the Commission's rules governing Television Broadcast Stations is amended by deleting the present provision and substituting the following:

(i) *Operation.* (1) Spurious emissions, including radio frequency harmonics, shall be maintained at as low a level as the state of the art permits. As measured at the output terminals of the transmitter (including harmonic filters, if required) all emissions removed in frequency in excess of 3 mc above or below the respective channel edge shall be attenuated no less than 60 db below the visual transmitted power.[1] [2] In the event of interference caused to any service greater attenuation will be required.

[F. R. Doc. 53-5397; Filed, June 17, 1953; 8:51 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 101]

ALASKA COMMERCIAL FISHERIES

NOTICE OF INTENTION TO ADOPT AMENDMENTS FOR PROTECTION

Pursuant to section 4 (a) of the Administrative Procedure Act, approved June 11, 1946 (60 Stat. 237; 5 U. S. C. 1003) and the authority contained in the act of June 6, 1924 (43 Stat. 465, 48 U. S. C. 221, et seq.) as amended and supplemented, notice is hereby given that the Secretary intends to take the following action:

Adopt amended regulations permitting and governing the time, means, and methods for the taking of commercial fish in the waters of Alaska, and related matters.

The foregoing regulations are to be effective beginning about February 1, 1954, and to continue in effect thereafter until further notice.

Interested persons are hereby given an opportunity to participate in considering changes in the regulations by submitting their views, data, or arguments in writing to the Director of the Fish and Wildlife Service, Department of the Interior, Washington 25, D. C., on or before November 20, 1953, or by presenting their views at a series of open discussions scheduled to be held as follows:

Dillingham, Alaska, August 1; Kodiak, Alaska, September 18; Anchorage, Alaska, September 21; Cordova, Alaska, September 23; Ketchikan, Alaska, October 12; Wrangell, Alaska, October 14; Petersburg, Alaska, October 15; Sitka, Alaska, October 19; Juneau, Alaska, October 21; Seattle, Wash., November 4, 5, and 6.

The hour and place of each meeting will be announced by the local representative of the Fish and Wildlife Service at the places indicated above.

ORME LEWIS,
Acting Secretary of the Interior.

JUNE 12, 1953.

[F. R. Doc. 53-5364; Filed, June 17, 1953; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 27]

COTTON

OFFICIAL STANDARDS OF U. S. FOR GRADES OF AMERICAN UPLAND COTTON

Notice is hereby given that the United States Department of Agriculture is considering a revision of the Good Middling (white) standard (7 CFR 27.151) included in the Official Cotton Standards of the United States for the Grade of American Upland Cotton, also referred to as the "Universal Standards for American Cotton" pursuant to the authority contained in section 1926 of the Internal Revenue Code (53 Stat. 210; 26 U. S. C. 1920-35) and in the United States Cotton Standards Act (42 Stat. 1517, as amended; 7 U. S. C. 51 et seq.)

In the official cotton standards promulgated on August 12, 1952, to become effective August 15, 1953, the standard for Good Middling (7 CFR 27.151) was included as a descriptive standard. Under the proposed revision this standard would be promulgated as a physical form standard to become effective in July 1954.

The proposed physical form standard for Good Middling will be on display for any interested person in the Classing Laboratory, 6th floor of the Agricultural Annex, Twelfth and C Streets SW., Washington, D. C.

Any interested person who wishes to submit written data, views, or arguments concerning the proposed revision may do so by filing them with the Director, Cotton Branch, Production and Marketing

[1] Stations authorized prior to July 1, 1953, shall have until July 1, 1954, to comply with this requirement unless actual interference is caused.

[2] The 60 db value for television transmitters specified in this rule should be considered as a temporary requirement which may be increased at a later date, especially when more higher-powered equipment is utilized. Stations should, therefore, give consideration to the installation of equipment with greater attenuation than 60 db.

Administration, United States Department of Agriculture, Washington 25, D. C., not later than 10 days after publication of this notice in the FEDERAL REGISTER. It will not be necessary for those groups and individuals who submitted data and views at the Universal Cotton Standards Conference held in Washington May 13–15, to resubmit them unless they have additional information to be considered.

The Department also announces a field trial for a period of one year, subject to such extension as is needed, for proposed physical standards for spotted cotton in the grades Strict Middling Spotted, Middling Spotted, Strict Low Middling Spotted, and Low Middling Spotted. The descriptive standards for spotted cotton promulgated August 12, 1952 (7 CFR 27.158 through 27.162) to become effective August 15, 1953, will be the Official Cotton Standards of the United States for the Grades of Spotted Cotton and the Universal Standards for the Grades of Spotted Cotton and it is proposed to consider the practicability of physical form standards by a field trial. Boxes of the proposed standards to be used in the field trial will be available to the public in August 1953, at the following prices: $5.00 per six-sample box, f. o. b. Washington, D. C., for shipments within the continental United States and $6.50 each, delivered to destination, for shipments outside the continental United States. Applications and remittances should be mailed to the Cotton Branch, Production and Marketing Administration, United States Department of Agriculture, Washington, D. C.

Any interested person who wishes to submit written data, views, or arguments concerning his experiences with the field trial boxes for spotted cotton may do so by filing them with the Director, Cotton Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., not later than one year after publication of this notice in the FEDERAL REGISTER.

Issued at Washington, D. C., this 12th day of June 1953.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 53-5410; Filed, June 17, 1953; 8:54 a. m.]

[7 CFR Part 910]

[Docket No. AO 13-A3]

FRESH VEGETABLES GROWN IN THE COUNTIES OF ALAMOSA, RIO GRANDE, CONEJOS, COSTILLA, SAGUACHE, AND MINERAL IN COLORADO

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER AS AMENDED

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held at Alamosa, Colorado, on March 30, 1953, pursuant to notice thereof which was published in the FEDERAL REGISTER (18 F R. 1394) upon proposed amendments to Marketing Agreement No. 67, as amended, and Marketing Order No. 10, as amended, regulating the handling of vegetables grown in certain designated counties in Colorado.

Upon the basis of the evidence introduced at the aforesaid hearing and the record thereof the Acting Assistant Administrator, Production and Marketing Administration, on May 13, 1953, filed with the Hearing Clerk, U. S. Department of Agriculture, his recommended decision in this proceeding. The notice of the filing of such recommended decision affording opportunity to file written exceptions thereto was published in the FEDERAL REGISTER (18 F R. 2848) No exceptions to the recommended decision have been filed.

The material issues and the findings and conclusions of the recommended decision set forth in the FEDERAL REGISTER (F R. Doc. 53-4377; 18 F R. 2848) are hereby approved and adopted as the material issues and findings and conclusions of this decision as if set forth in full herein, except for the following modifications intended for clarification and described with reference to Federal Register Doc. 53-4377, 18 F R. 2848:

1. Under *Material issues,* the first sentences of items (5) (f) and (5) (i) thereof, the word "shipping" should be substituted for the word "handling."

2. Under *Findings and conclusions,* the second paragraph of item (3) thereof should be revised to read as follows:

A handler is any person who ships or packs vegetables so as to burden, obstruct, or affect commerce between the production area and any point outside thereof. The handling of vegetables by a handler shall include the packing of such vegetables, the offering of such vegetables for transportation, sale, or placing such vegetables in commerce between the production area and any point outside therof. The handler is the person who is responsible for burdening commerce in such vegetables and the handler is the person who should be responsible for complying with any regulations or requirements established pursuant to this marketing program. The packing of vegetables for market is defined as handling because the packing operation determines the vegetables which shall become a part of commerce and those which shall not. In addition, the packing of vegetables is the first act of handling and such act should be subject to control under this marketing program so that excessive supplies cannot be built up and held on track during a shipping holiday with the result that the purposes for which the holiday was instituted would be defeated. It is necessary that all the acts involved in shipping should be prohibited during a holiday. It is not enough that the final act of starting a car or truck to roll should be prohibited, but the previous acts of the handler including packing, and loading, should also be included in the activities subject to control.

And the fourth paragraph thereof should be revised to read as follows:

The handler who first transports the vegetables in commerce after they have been inspected for market is the person who should pay the assessment thereon. Effective regulation requires that each lot of vegetables grown in the production area and shipped in commerce should meet the grade, size, and quality requirements established by regulations issued under the amended marketing agreement and order to effectuate the declared policy of the act and each person responsible for shipping such vegetables or continuing such vegetables in commerce should comply with the aforesaid requirements except as hereinafter indicated. Such persons are performing handling functions in commerce in connection with such activities; therefore, the definition of "handle" as hereinafter set forth in the amended marketing agreement and order includes all the activities and transactions with respect to marketing vegetables grown in the production area herein found and concluded to be in commerce.

3. Under *Findings and conclusions,* the third line, second paragraph of item (5) (b) thereof, the word "the" should be substituted for the word "each"; and there should be added at the end of the first sentence of the aforesaid paragraph the following: "The applicant for inspection is usually the person who places the shipment in commerce. While packing is a function of handling, in many instances the person doing the packing delivers the vegetables to another handler who assembles them into carlots and trucklots for shipment to market and the "packing" function intended to be regulated here only occurs during a shipping holiday."

4. Under *Findings and conclusions,* the third line from the end of the first paragraph of item (5) (e) thereof, delete the word "packed."

5. Under *Findings and conclusions,* the tenth line of the fourth paragraph of item (5) (g) thereof, the word "shipped" should be substituted for the word "handled."

6. In the third column of page 2854 of said Federal Register document, paragraph "(g)" should be changed to "(h)"; and in the first column of page 2855 paragraph "(h)" should be changed to "(i)"; and in the second column of page 2855 paragraph "(i)" should be changed to "(j)"

Marketing agreement and order as amended. Annexed hereto and made a part hereof are two documents entitled respectively "Marketing Agreement No. 67, as amended, Regulating the Handling of Vegetables Grown in Certain Designated Counties in Colorado" and "Order No. 10, as amended, Regulating the Handling of Vegetables Grown in Certain Designated Counties in Colorado" which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. The aforesaid marketing agreement and the aforesaid order, as amended, shall not become effective unless and until the requirements of § 900.14 of the afore-

said rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

It is hereby ordered, That all of this decision, except the attached agreement be published in the FEDERAL REGISTER. The regulatory provisions of the said amended agreement are identical with those contained in the attached amended order, which will be published with this decision.

Done at Washington, D. C., this 12th day of June 1953.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

Order as amended[1] *Regulating the Handling of Vegetables Grown in Certain Designated Counties in Colorado*

§ 910.0 *Findings and determinations*—(a) *Findings upon the basis of hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933) as amended, and as reenacted, and amended, by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.) and the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held at Alamosa, Colorado, on March 30, 1953, upon proposed amendments to Marketing Agreement No. 67 and Marketing Order No. 10, as amended, regulating the handling of vegetables grown in certain designated counties in Colorado. Upon the basis of evidence introduced at such hearing and the record thereof it is found that:

(1) The amended order as hereinafter set forth and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(2) This amended order is limited in its application to the smallest regional production area that is practical consistent with carrying out the declared policy of the act;

(3) This amended order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to vegetables produced in said production area by establishing and maintaining such orderly marketing conditions thereof as will tend to establish parity prices to producers and by authorizing no action which has for its purpose the maintenance of prices to producers of such vegetables above the level which it is declared in the act to be the policy of Congress to establish and by authorizing the establishment and maintenance of such minimum standards of quality and maturity and such grading and inspection requirements as will tend to effectuate such orderly marketing of vegetables as will be in the public interest; and

(4) All handling of vegetables grown in the production area and in the current of commerce between the production area and any point outside thereof is either in the current of interstate or foreign commerce or directly burdens, obstructs or affects such commerce.

Order relative to handling. It is hereby ordered pursuant to the findings and determinations set forth in § 910.0 and pursuant to the aforesaid act, that such handling of vegetables as defined in this amended order, shall from and after the time hereinafter specified be in conformity to and in compliance with the terms and conditions of the amended order. Sections 910.1 to 910.96 inclusive of the proposed marketing order, as amended, set forth in the Acting Assistant Administrator's recommended decision published in the FEDERAL REGISTER May 16, 1953 (18 F. R. 2848–2869) are hereby incorporated in this amended order, as if set forth in full herein, except for the following modifications:

1. In § 910.9 *Handler* delete the words "is synonymous with 'shipper' and."

2. Add new § 910.10 to read as follows:

§ 910.10 *Handle.* "Handle" means to ship vegetables or to pack vegetables, or both.

3. Renumber present § 910.10 as § 910.11 and delete the words "or handle"

4. Renumber §§ 910.11 to 910.20 as §§ 910.12 to 910.21.

5. In § 910.33 (b) (3) "§ 910.56" should be substituted for "§ 910.54."

6. In § 910.42 *Duties* the word "shipped" should be substituted for the word "handled."

7. In § 910.44 (c) the word "shipped" should be substituted for the word "handled."

8. In § 910.65 (a) the words "prior to making such shipment" should be inserted between the word "inspected" and the words "by an authorized representative"

DEFINITIONS

§ 910.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States, or any other officer, or employee of the United States Department of Agriculture, who is, or may hereafter be authorized to act in his stead.

§ 910.2 *Act.* "Act" means Public Act, No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.).

§ 910.3 *Person.* "Person" means an individual, partnership, corporation, association, or any other business unit.

§ 910.4 *Production area.* "Production area" means all territory included in the counties of Alamosa, Rio Grande, Conejos, Costilla, Mineral and Saguache in the State of Colorado.

§ 910.5 *Vegetables.* "Vegetables" means any one or more of the following agricultural commodities: peas and cauliflower.

§ 910.6 *Peas.* "Peas" means all varieties of peas for sale for consumption in fresh form grown in the production area.

§ 910.7 *Cauliflower.* "Cauliflower" means all varieties of cauliflower, for sale for consumption in fresh form grown in the production area.

[1] This order, as amended, shall not become effective unless and until requirements of § 900.14 of the rules and practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

§ 910.8 *Producer* "Producer" means any person engaged in the production of vegetables for market.

§ 910.9 *Handler* "Handler" means any person (except a common or contract carrier of vegetables owned by another person) who ships or packs such vegetables.

§ 910.10 *Handle.* "Handle" means to ship vegetables or to pack vegetables, or both.

§ 910.11 *Ship.* "Ship" means to sell, offer for transportation, or transport vegetables from any point within the production area to any point outside thereof.

§ 910.12 *Fiscal period.* "Fiscal period" means the period beginning on June 1 of each year and ending May 31 of the following year.

§ 910.13 *Committee* "Committee" means (a) the administrative committee or the San Luis Valley Vegetable Committee and (b) each marketing committee.

§ 910.14 *Administrative committee.* "Administrative committee" means the San Luis Valley Vegetable Committee established pursuant to § 910.25.

§ 910.15 *Marketing committee.* "Marketing committee" means each one of the commodity marketing committees established pursuant to § 910.25.

§ 910.16 *Varieties.* "Varieties" means, with respect to each of the vegetables, all classifications or subdivisions thereof according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture.

§ 910.17 *Pack or unit.* "Pack or unit" means, with respect to each of the vegetables, a volume of the respective vegetables contained in a basket, hamper, bag, crate, bulk load, or other container, and which falls within specific limits recommended by the appropriate marketing committee and approved by the Secretary.

§ 910.18 *Packing.* "Packing" means the trimming, grading and placing of vegetables into a pack or unit for shipment to market.

§ 910.19 *Grade and size.* "Grade" means any one of the officially established grades of vegetables, and "size" means any one of the officially established sizes of vegetables, as defined and set forth in:

(a) United States Standards for Fresh Peas issued by the United States Department of Agriculture (14 F R. 564) or amendments thereto, or modifications thereof, or variations based thereon;

(b) United States Standards for Cauliflower issued by the United States Department of Agriculture (§ 51.171 of this title), or amendments thereto, or modifications thereof, or variations based thereon;

(c) Standards for Fresh Peas or Cauliflower, issued by appropriate authorities in the State of Colorado, or amendments thereto, or modifications thereof, or variations based thereon.

§ 910.20 *District.* "District" means each one of the geographical divisions of the production area initially established pursuant to § 910.26 or reestablished pursuant to § 910.29.

§ 910.21 *Export.* "Export" means shipment of vegetables beyond boundaries of Continental United States.

COMMITTEES

§ 910.25 *Establishment.* (a) The agencies for administering the terms and provisions of this part shall be the administrative committee and each of the following marketing committees: (1) The Pea Marketing Committee; and (2) the Cauliflower Marketing Committee.

(b) Such agencies shall be selected in accordance with the methods set forth in §§ 910.27 to 910.33, inclusive. Each marketing committee shall have sole responsibility and authority for recommending regulations pursuant to §§ 910.50 to 910.56, inclusive, for the vegetable which its members represent. The administrative committee whose members shall be selected from the marketing committees, shall provide the staff and services for carrying out its, and each marketing committee's powers and duties under this part.

§ 910.26 *Initial districts.* As a basis for selecting marketing committee members the following districts of the production area are hereby initially established:

PEAS

District No. 1 shall consist of the counties of Rio Grande, Mineral and Saguache;

District No. 2 shall consist of the counties of Alamosa, Costilla and Conejos.

CAULIFLOWER

District No. 1 shall consist of the county of Costilla;

District No. 2 shall consist of the county of Conejos;

District No. 3 shall consist of the counties of Alamosa, Mineral, Rio Grande and Saguache.

§ 910.27 *Marketing committees.* The following are the marketing committees and their compositions, respectively:

(a) The Pea Marketing Committee shall consist of eight members, of whom four shall be selected from producers of peas and four shall be selected from handlers of peas. Two producers shall be selected from District No. 1, and two producers shall be selected from District No. 2. Handlers shall be selected at large from the production area.

(b) The Cauliflower Marketing Committee shall consist of six members, of whom four shall be selected from producers of cauliflower and two shall be selected from handlers. One producer shall be selected from District No. 1; one producer shall be selected from District No. 2; and two producers shall be selected from District No. 3. Handlers shall be selected at large from the production area.

§ 910.28 *Administrative committee.* The members of the administrative committee shall be selected from among marketing committees, and each marketing committee shall be represented on the administrative committee as follows: The Secretary shall select two administrative committee members from the Pea Marketing Committee and two committee members from the Cauliflower Marketing Committee. At least one member from each of the marketing committees must represent producers.

§ 910.29 *Redistricting.* Joint meetings of marketing committees may be called by the administrative committee to consider and to recommend, and pursuant thereto the Secretary may approve, the number of members on each such marketing committee, the apportionment of such members among districts within each such area, and the reestablishment of districts within the production area: *Provided,* That in recommending any such changes, the administrative committee shall give consideration to: (a) The importance of new production in its relation to existing districts and to existing organization of marketing committees; (b) shifts in acreage of each vegetable covered by this order during recent years within districts and within the production area, (c) changes in the relative position of marketing committees with respect to the acreage and production of the vegetable they represent and such relationships to proposed districts; (d) economies to result thereby for producers in promoting efficient administration of this subpart; and (e) other relevant factors: *Provided further,* That such recommendations for any fiscal period shall be made at least 30 days prior to the beginning of such fiscal period. No such change may become effective for any fiscal period later than 30 days following the opening of such period.

§ 910.30 *Committee members and alternates.* (a) For each member of each marketing committee and for each member of the administrative committee there shall be an alternate who shall have the same qualifications as the member. Persons selected as producer members or alternates of each marketing committee shall be individuals who are producers of such vegetable in the respective district for which selected or officers or employees of a corporate producer of such vegetable in such district. A person may be a member of more than one marketing committee.

(b) An alternate member of a committee shall act in the place and stead of the member for whom he is an alternate, during such member's absence. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor of such member is selected and has qualified.

§ 910.31 *Term of office.* The term of office of members and alternates of the administrative committee shall be one year, and the term of office of members and alternates of each marketing committee shall be for two years, and until their successors are selected and have qualified: *Provided, however,* That the terms of office of members and alternates of each marketing committee shall be so determined that one-half of the total committee membership shall terminate at the end of each year. Mem-

bers and alternates of the administrative committee shall serve during the term of office for which they are selected and have qualified, or during that portion thereof beginning on the date on which they qualify during such term of office and continuing until the end thereof, and until their successors are selected and have qualified. The terms of office for members and alternates of the administrative committee and of the marketing committees shall begin on June 1.

§ 910.32 *Nomination.* The Secretary may select the members of the committees, with their respective alternates, from nominations which may be made in the following manner:

(a) The administrative committee shall hold or cause to be held prior to May 15 of each year, after the effective date of this subpart, a meeting or meetings of producers and a meeting or meetings of handlers in the production area;

(b) In arranging for such meetings the committee may, if it deems desirable, utilize the services and facilities of existing organizations and agencies;

(c) At each such meeting at least four nominees shall be designated for each member including the alternate member on the marketing committees;

(d) Nominations for marketing committee members and alternate members shall be supplied to the Secretary in such manner and form as he may prescribe, not later than May 15 of each year;

(e) Only producers may participate in designating nominees for producer committee members and their alternates and only handlers may participate in designating nominees for handler committee members and their alternates;

(f) Regardless of the number of districts in which a person produces vegetables, each such person is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives, in designating nominees for members and alternates on each marketing committee: *Provided,* That in the event a person is engaged in producing vegetables in more than one district such person shall elect the district within which he may participate as aforesaid in designating nominees: *Provided further* That an eligible voter's privilege of casting only one vote as aforesaid shall be construed to permit a voter to cast one vote for each position to be filled in the respective district in which he elects to vote for members and alternates on each marketing committee.

§ 910.33 *Failure to nominate.* If nominations are not made within the time and in the manner specified in § 910.32 the Secretary may, without regard to nominations, select the marketing committee members and alternates, which selection shall be on the basis of the representation provided for in §§ 910.27 to 910.28, inclusive.

§ 910.34 *Acceptance.* Any person selected as an administrative committee or as a marketing committee member or alternate shall file a written acceptance with the Secretary.

§ 910.35 *Vacancies.* To fill committee vacancies, the Secretary may select members and alternates from unselected nominees on the current nominee list from the district involved, or from nominations made in the manner specified in § 910.32. If the names of nominees to fill any such vacancy are not made available and post marked to the Secretary within 30 days after such vacancy occurs, such vacancy may be filled without regard to nominations, which selection shall be made on the basis of the representation provided for in §§ 910.27 to 910.28, inclusive.

§ 910.36 *Procedure.* (a) A majority of the members of each committee shall be necessary to constitute a quorum and a majority of concurring votes of the entire membership of each such committee or of a joint meeting of committees will be required to pass any motion or approve any committee action.

(b) The committees may provide for meeting by telephone, telegraph, or other means of communication and any vote cast at such a meeting shall be confirmed promptly in writing: *Provided,* That if any assembled meeting is held, all votes shall be cast in person.

§ 910.37 *Expenses and compensation.* Committee members and alternates shall serve as such members and alternates without compensation, but they may be reimbursed for reasonable expenses necessarily incurred by them in the performance of their duties and in the exercise of their powers under this part.

§ 910.38 *Powers.* The administrative committee and each of the marketing committees shall have the following powers which may be necessary for each such committee to perform its functions in accordance with the provisions of this part:

(a) To administer the provisions of this part in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 910.39 *Duties.* (a) It shall be the duty of the administrative committee:

(1) At the beginning of each fiscal year, to meet and organize, select from among its membership a chairman and such other officers as may be necessary and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(2) To act as intermediary between the Secretary and any producer or handler;

(3) To furnish to the Secretary such available information as he may request;

(4) To call joint meetings from time to time with the marketing committees.

(5) To appoint such employees, agents, and representatives as it may deem necessary and to determine the salaries and define the duties of each such person;

(6) To investigate from time to time and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to vegetables, as may be approved by the Secretary.

(7) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the administrative committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or his authorized agent or representative;

(8) To make available to producers and handlers marketing committee voting records on recommended regulations and on other matters of policy.

(9) At the beginning of each fiscal year to prepare a budget of its expenses and rate of assessments for such fiscal year, together with a report thereon;

(10) To cause the books of the administrative committee to be audited by a competent accountant at least once each fiscal period, and at such other time as such committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part; a copy of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of such committee for inspection by producers and handlers;

(11) To consult, cooperate, and exchange information with other marketing order committees and other individuals or agencies in connection with all proper activities and objectives of such committees under this part; and

(12) To investigate an applicant's claim for exemption.

(b) It shall be the duty of each marketing committee:

(1) To nominate members and alternates for the administrative committee;

(2) To prepare a marketing policy.

(3) To recommend regulations to the Secretary pursuant to §§ 910.52 to 910.56, inclusive, which may be applicable to the handling of the respective vegetables for which such committees were established;

(4) To recommend rules and procedures for, and to make determinations in connection with, issuance of certificates of privilege and exemption pursuant to §§ 910.56, 910.70 to 910.76, inclusive;

(5) To select from among its membership a chairman and such other officers and subcommittees as may be necessary; and

(6) To adopt such rules and regulations for the conduct of its internal management as it may deem advisable.

EXPENSES AND ASSESSMENTS

§ 910.42 *Expenses.* The administrative committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred by such committee during each fiscal period for the maintenance and functioning of such committee and each marketing committee, and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. Handlers shall share expenses upon the basis of a fiscal period. Each handler's share of such expense shall be proportionate to the ratio between the total quantity of vegetables shipped by him as the first applicant for inspection thereof during a fiscal period and the

total quantity of vegetables shipped by all handlers as first applicants for inspection thereof during such fiscal period.

§ 910.43 *Budget.* (a) At the beginning of each fiscal period and as may be necessary thereafter, the administrative committee shall prepare an estimated budget of income and expenditures necessary for the administration of this part. The administrative committee may recommend to the Secretary a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The administrative committee shall present such budget to the Secretary with an accompanying report showing the basis for its calculations.

(b) Whenever the administrative committee finds that the rate of assessment for a fiscal period is not sufficient to provide revenue to defray expenses for such period, it may present an amended budget to the Secretary and recommend that the rate of assessment be changed to cover such expenses.

§ 910.44 *Assessments.* (a) The funds to cover such expenses shall be acquired by the levying of assessments upon handlers as provided in this subpart. Each handler who first applies for inspection of vegetables shall pay assessments to the administrative committee upon demand, which assessments shall be in payment of such handler's pro rata share of the committee's expenses.

(b) Assessments shall be levied upon handlers at rates established by the Secretary. Such rates may be established upon the basis of the administrative committee's recommendations and other available information. Such rates may be applied equitably to each pack or unit.

(c) At any time during or subsequent to a given fiscal period the administrative committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendations or other available information the Secretary may approve an amended budget and increase the rate of assessment. Such increase shall be applicable to all vegetables which were regulated under this part and which were shipped by the first applicant for inspection thereof during such fiscal period.

§ 910.45 *Accounting.* (a) All funds received by the administrative committee pursuant to the provisions of this subpart shall be used solely for the purposes specified in this part.

(b) The Secretary may at any time require the administrative committee, its members and alternates, employees, agents, and all other persons to account for all receipts and disbursements, funds, property, or records for which they are responsible. Whenever any person ceases to be a member or alternate of the administrative committee he shall account for all receipts, disbursements, funds and property (including but not being limited to books and other records) pertaining to the administrative committee's activities for which he is responsible, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor, committee, or person designated by the Secretary, the right to all of such property and funds and all claims vested in such person.

(c) The administrative committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, or any other committee property during periods when regulations are not in effect and, if the Secretary determines such action appropriate, he may direct that such person or persons shall act as trustee or trustees for the administrative committee.

§ 910.46 *Refunds.* At the end of each fiscal period or other representative period used by the administrative committee as a basis for seasonal accounting, monies arising from the excess of assessments over expenses shall be accounted for as follows:

(a) Each handler entitled to a proportionate refund of the excess assessments at the end of a fiscal period shall be credited with such refund against the operations of the following fiscal period unless he demands payment thereof, in which event such proportionate refund shall be paid to him, or

(b) The Secretary, upon recommendation of the administrative committee, may determine that it is appropriate for the maintenance and functioning of such committee that some of the funds remaining at the end of a fiscal period which are in excess of the expenses necessary for administrative committee operations during such period may be carried over into following periods as a reserve for possible liquidation. Upon approval by the Secretary, such reserve may be used upon termination of this part to liquidate the affairs of the committees: *Provided,* That upon termination of this part (1) any monies in the reserve for liquidation which are not required to defray the necessary expenses of liquidation shall be returned upon a pro rata basis to all persons from whom such funds were collected; or (2) that if the Secretary, upon recommendation of the administrative committee, determines that the amounts so returnable to individual handlers are so small as to make impracticable the computation and remitting of such pro rata refund to such persons, the remaining funds shall be deposited in the U. S. Treasury.

REGULATION

§ 910.50 *Marketing policy*—(a) *Preparation.* Prior to each season each marketing committee shall consider and prepare a proposed policy for the marketing of the vegetable for which it has the authority to recommend regulations. In developing its marketing policy each marketing committee shall investigate relevant supply and demand conditions for its particular vegetable. In such investigations each marketing committee shall give appropriate consideration to the following:

(1) Market prices for such vegetable, including prices by grade, size, and quality in different packs, or any other shipping unit;

(2) Supply of such vegetable by grade, size, and quality, in the production area and in other production areas;

(3) The trend and level of consumer income;

(4) Establishing and maintaining orderly marketing conditions for such vegetables;

(5) Orderly marketing of such vegetables as will be in the public interest; and

(6) Other relevant factors.

(b) *Reports.* (1) Each marketing committee shall submit to the Secretary a report setting forth the aforesaid marketing policy, and a copy of such report shall be made available to the administrative committee. Each marketing committee with the assistance of the administrative committee also shall notify producers and handlers of the contents of such reports.

(2) In the event it becomes advisable to deviate from such marketing policy, because of changed supply and demand conditions, the respective marketing committee shall formulate a new marketing policy in accordance with the manner previously outlined. Such committee also shall submit a report thereon to the Secretary, also to the administrative committee, and notify, with the assistance of the administrative committee producers and handlers of such revised or amended marketing policy.

§ 910.51 *Recommendation for regulations.* Each marketing committee shall recommend regulations to the Secretary whenever it finds that such regulation, as provided in § 910.52, will tend to effectuate the declared policy of the act. Each marketing committee also may recommend modification, suspension, or termination of any regulation in order to facilitate shipments of vegetables for the specified purposes set forth in § 910.53.

§ 910.52 *Issuance of regulations.* The Secretary shall limit the shipment of vegetables whenever he finds from the recommendations and information submitted by a marketing committee, or from other available information, that such regulation would tend to effectuate the declared policy of the act. Such limitation may include any or all of the following:

(a) Regulate the shipment of particular grades, sizes, or qualities of vegetables during any period; or

(b) Regulate the shipment of vegetables by establishing, in terms of grades, sizes or both, minimum standards of quality and maturity; or

(c) Prohibit during any period the shipment of vegetables, or the packing of vegetables during such period, or both; *Provided,* That such prohibition shall not exceed 96 hours: *Provided further* That not less than 72 hours shall elapse from the termination of such period to the commencement of a subsequent period during which such packing or shipment would be prohibited.

§ 910.53 *Modification, suspension or termination.* Upon the basis of recommendations and information submitted by the marketing committees, or other

available information, the Secretary shall modify, suspend, or terminate regulations issued pursuant to §§ 910.44, 910.52, 910.65, and this section, or any combination thereof, in order to facilitate shipments of vegetables for the following purposes whenever he finds that it will tend to effectuate the declared policy of the act:

(a) For export;

(b) For distribution by the Federal government;

(c) For manufacture or conversion into specified products;

(d) For charity; and

(e) For other purposes which may be specified.

§ 910.54 *Minimum quantity regulation.* Each marketing committee, with the approval of the Secretary, may establish, for any or all portions of the production area, minimum quantities below which shipments will be free from regulations issued pursuant to §§ 910.44, 910.52, 910.53, and 910.65, or any combination thereof.

§ 910.55 *Notification of regulation.* The Secretary shall notify marketing committees through the administrative committee of any regulations issued or of any modification, suspension, or termination thereof. Each marketing committee with the assistance of the administrative committee shall give reasonable notice thereof to producers and handlers.

§ 910.56 *Safeguards.* (a) The administrative committee upon recommendation of a marketing committee, and with the approval of the Secretary, shall prescribe adequate safeguards to prevent shipments pursuant to §§ 910.53 and 910.54 from entering channels of trade for other than the specific purpose authorized therefor, and rules governing the issuance and the contents of Certificate of Privilege if such certificates are prescribed as safeguards by such committee. Such safeguards may include requirements that:

(1) Handlers shall file applications with the committee to ship vegetables pursuant to § 910.53;

(2) Handlers shall obtain inspection provided by § 910.65 or pay the pro rata share of expenses provided by § 910.44, or both, in connection with shipments effected under the provisions of § 910.53: *Provided,* That such inspection or payment of expenses may be required at different times than otherwise specified by the aforesaid sections; and

(3) Handlers shall obtain Certificates of Privilege from the administrative committee for shipments of vegetables effected or to be effected under the provisions of § 910.53.

(b) The administrative committee may rescind or deny Certificates of Privilege to any handler if proof is obtained that vegetables shipped by him for the purposes stated in § 910.53, were handled contrary to the provisions of this subpart.

(c) The Secretary shall have the right to modify, change, alter, or rescind any safeguards prescribed and any certificates issued by the administrative committee pursuant to the provisions of this section.

(d) The administrative committee shall make reports to the Secretary, as requested, showing the number of applications for such certificates, the quantity of vegetables covered by such applications, the number of such applications denied and certificates granted, the quantity of vegetables shipped under duly issued certificates, and such other information as may be requested.

INSPECTION

§ 910.65 *Inspection and certification.* (a) During any period in which shipments of vegetables are regulated pursuant to the provisions of §§ 910.44, 910.52, or 910.53 or any combination thereof, no handler shall ship vegetables unless each such shipment is inspected prior to making such shipment by an authorized representative of the Federal-State Inspection Service or such other inspection service as the Secretary shall designate, except when relieved from such requirement pursuant to §§ 910.53 and 910.54.

(b) Each handler procuring such inspection shall make arrangements with the inspecting agency to forward promptly to the administrative committee a copy of the inspection certificate.

EXEMPTIONS

§ 910.70 *Policy.* Any producer whose vegetables have been adversely affected by acts beyond his control or any person who has purchased a field of unharvested vegetables prior to the occurrence of such adverse acts and who, by reason of any regulation issued pursuant to § 910.52 is prevented from shipping during the season or a specific portion thereof, as large a proportion of his crop as the average proportion shipped or to be shipped during comparable portions of the season by all producers in his immediate area of production, may apply to the administrative committee for exemptions from such regulations for the purpose of obtaining equitable treatment under such regulations.

§ 910.71 *Rules and procedures.* The administrative committee shall adopt, upon the recommendation of a marketing committee, and with approval of the Secretary, the rules and procedures pursuant to which certificates of exemption will be issued.

§ 910.72 *Marketing committee determinations.* Each marketing committee, when making recommendations for rules and regulations relative to the issuance of certificates of exemption, shall:

(a) Determine the average proportion of production which can be shipped by all producers in the production area for the season to be covered by the proposed rules and regulations;

(b) Determine the portion or portions of the production area constituting an immediate area or areas of production for prospective applicants;

(c) Determine methods for establishing an appropriate and equitable basis for comparisons between any producer's crop, or specific portion thereof, and the average proportion of production which may be shipped by all producers within any such producer's immediate shipping area during the entire season; and

(d) Give reasonable notice through the administrative committee to producers, handlers, and other interested parties with respect to such determinations.

§ 910.73 *Applications and issuance.* The administrative committee shall issue certificates of exemption to any qualified applicant who furnishes adequate evidence to such committee:

(a) That the grade, size, or quality of the applicant's vegetables have been adversely affected by acts beyond the applicant's control;

(b) That by reason of regulations issued pursuant to § 910.52 an applicant will be prevented from shipping as large a proportion of his production as the average proportion of production shipped by all producers in said applicant's immediate area of production during the season or a specific portion thereof;

(c) Each certificate shall permit the recipient thereof to ship the vegetables described thereon, and evidence of such certificates shall be made available to subsequent handlers thereof.

§ 910.74 *Investigation.* The administrative committee and the marketing committee serving the commodity which the applicant wishes to ship shall be permitted at any time to make a thorough investigation of any applicant's claim pertaining to exemptions. Field inspection, if required, shall be made by the Federal-State Inspection Service, or such other inspection service as the Secretary shall designate.

§ 910.75 *Appeals.* If any applicant for exemption certificates is dissatisfied with the determination with respect to his application, said applicant may file an appeal with the administrative committee. Any applicant filing an appeal shall furnish evidence satisfactory to the administrative committee for a determination on the appeal. The administrative committee shall thereupon consider the application, examine all available evidence, and make a final determination concerning the application. The administrative committee shall notify the appellant of the final determination, and shall furnish the Secretary with a copy of the appeal and a statement of considerations involved in making the final determination.

§ 910.76 *Records.* The administrative committee shall maintain a record of all applications submitted for exemption certificates, a record of all exemption certificates issued and denied, the quantity of vegetables covered by such exemption certificates, a record of the amount of vegetables shipped under exemption certificates, a record of appeals for reconsideration of applications, and such information as may be requested by the Secretary. Periodic reports on such records shall be compiled and issued by the administrative committee upon request of the Secretary.

EFFECTIVE TIME AND TERMINATION

§ 910.80 *Effective time.* The provisions of this subpart shall become effective at such time as the Secretary may declare and shall continue in force until

terminated in one of the ways specified in this subpart.

§ 910.81 *Termination.* (a) The Secretary may at any time, terminate the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers, who during the preceding fiscal period, have been engaged in the production for market of vegetables: *Provided,* That such majority has during such fiscal period, produced for market more than fifty percent of the volume of such vegetables produced for market; but such termination shall be effective only if announced at least 30 days prior to the end of the then current fiscal period.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 910.82 *Proceedings after termination.* (a) Upon the termination of the provisions of this subpart, the then functioning members of the administrative committee shall continue as trustees for the purpose of liquidating the affairs of such committee of all the funds and property then in the possession of or under control of such committee including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the administrative committee and of the trustees, to such person as the Secretary may direct and shall upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the administrative committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered by the administrative committee, or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of such committee and upon the said trustees.

§ 910.83 *Effect of termination or amendment.* (a) Unless otherwise expressly provided by the Secretary the termination of this subpart or any regulation issued pursuant to this subpart or the issuance of any amendments to either thereof, shall not (1) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart or (2) release or extinguish any violation of this subpart or of any regulations issued under this subpart or (3) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

(b) The persons who are members and alternates of the Administrative Committee established pursuant to Order No. 10, as amended, on the effective date of this subpart, shall continue in office under this subpart until their successors have been selected and have qualified; and all rules and regulations issued pursuant to Order No. 10, shall continue in effect until terminated in accordance with their present terms, or until modified, suspended, or terminated by the Secretary in accordance with the provisions of this subpart.

MISCELLANEOUS PROVISIONS

§ 910.85 *Reports.* Upon the request of the administrative committee, with approval of the Secretary, every handler shall furnish to such committee, in such manner and at such time as may be prescribed, such information as will enable the administrative committee to exercise its powers and perform its duties under this subpart. The Secretary shall have the right to modify, change, or rescind any requests for reports pursuant to this section.

§ 910.86 *Compliance.* Except as provided in this subpart, no handler shall ship vegetables, the shipment of which has been prohibited by the Secretary in accordance with provisions of this subpart, and no handler shall ship vegetables except in conformity to the provisions of this subpart.

§ 910.87 *Right of the Secretary.* The members of the administrative committee and the members of the marketing committees (including successors and alternates) and any agent or employee appointed or employed by such committees, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of such committees shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 910.88 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 910.89 *Agents.* The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ 910.90 *Derogation.* Nothing contained in this subpart is or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 910.91 *Personal liability.* No member or alternate of the administrative committee nor any marketing committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee, except for acts of dishonesty.

§ 910.92 *Separability.* If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstances, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ 910.93 *Amendments.* Amendments to this subpart may be proposed, from time to time, by the committee, or by the Secretary.

Order Directing That Referendum Be Conducted Among Producers; Designating Agents To Conduct Such Referendum, and Determination of Representative Period

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), it is hereby directed that a referendum be conducted among producers who during the calendar year 1952 (which period is hereby determined to be a representative period for the purpose of such referendum) were engaged in the production area as defined in § 910.4 of Order No. 10, as amended, in the production of vegetables for market, to determine whether such producers approve or favor the issuance of an amended order, regulating the handling of vegetables grown therein and said amended order annexed to the decision of the Secretary of Agriculture filed simultaneously herewith. The procedure applicable to the referendum shall be the procedure for the conduct of referenda among producers in connection with marketing orders (except those applicable to milk and its products) to become effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (15 F. R. 5176)

For the purpose of this referendum the production area is defined in § 910.4 of Order No. 10, as amended.

J. W Gannaway, Jr., William J. Higgins, and A. C. Cook of the Fruit and Vegetable Branch, Production and Marketing Administration, U. S. Department of Agriculture, are hereby designated as agents of the Secretary of Agriculture to conduct said referendum jointly or severally.

Copies of the text of the aforesaid amended order may be examined in the office of the Hearing Clerk, Room 1353, South Building, U. S. Department of Agriculture, Washington, D. C., and at the county agents office in each of the counties within the specified production area. Ballots to be cast in the referendum and copies of the text of said amended order may be obtained from any referendum agent and any appointee hereunder.

[F. R. Doc. 53-5412; Filed, June 17, 1953; 8:54 a. m.]

[7 CFR Part 944]

HANDLING OF MILK IN THE QUAD CITIES MARKETING AREA

DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900) a public hearing was held at Rock Island, Illinois, on January 22 and 23, 1953, pursuant to notice thereof which was issued on December 24, 1952 (18 F. R. 44) upon proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Quad Cities marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, the Acting Assistant Administrator, Production and Marketing Administration, on May 12, 1953, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of the filing of such recommended decision and the opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on May 15, 1953 (18 F. R. 2829).

The material issues of record related to:

1. Expansion of the marketing area to include Muscatine, Iowa, and Fulton, Illinois.
2. Extension of the regulation to non-Grade A milk.
3. Revision of the definition of pool plants.
4. Classifying all cheese, except cottage cheese as Class III.
5. Incorporation of location adjustments at country plants.
6. The subtraction from Class I of non-fat solids used to fortify bottled skim milk.
7. Allocating shrinkage between country plants and city plants.
8. Permitting handlers to make payments to producers through the market administrator.
9. Increasing the marketing service assessment.
10. Such other changes of an administrative nature as might be required by the adoption of the above amendments.

Exceptions to the recommended decision were filed on behalf of two of the producer cooperative associations supplying milk to the market. In arriving at the findings and conclusions of this decision each of such exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions herein are at variance with the exceptions, such exceptions are overruled.

Findings and conclusions. The findings and conclusions of the recommended decision set forth in the FEDERAL REGISTER (F. R. Doc. 53-4322; 18 F. R. 2829) with respect to the issues set forth above are approved and adopted as the findings and conclusions of this decision as set forth below.

It is hereby ordered, That this decision be published in the FEDERAL REGISTER.

This decision filed at Washington, D. C., this 12th day of June 1953.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

Findings and determinations. Upon the evidence contained in the hearing record, it has been found and concluded that no amendments should be issued for the reasons set forth below:

1. The marketing area should not be expanded to include the cities of Muscatine and Fulton.

While the city of Muscatine has on its books a Grade A ordinance which was adopted several years ago, this ordinance has never been applied. There are no handlers located in the city of Muscatine who dispose of Grade A milk. The only Grade A milk sold there originates in the Quad Cities, Dubuque, or Cedar Rapids-Iowa City marketing areas. Extension of the marketing area to include this territory, while restricting the application of the order to Grade A milk, would not be meaningful. For reasons discussed below it has been concluded that the order should not be extended to regulate receipts of non-Grade A milk.

In the event it were deemed desirable to regulate non-Grade A milk, the evidence would not justify the inclusion of Muscatine in the marketing area because of the adverse effect it would have on the dairy farmers who supply such milk for that city. Were the city of Muscatine added to the marketing area and non-Grade A milk regulated, the non-Grade A milk received by plants operating in Muscatine would be regulated by the order. The evidence in the record, however, indicates that total receipts by the two plants in Muscatine are equal to less than 10 percent of the volume of non-Grade A milk regularly received by handlers subject to the Quad Cities order. The record further shows that farmers who supply the plants in Muscatine receive prices for their milk substantially higher than the Class II price provided in the Quad Cities order. If the milk received by Muscatine plants were to be pooled with the non-Grade A milk received by Quad cities handlers, the uniform price resulting would be substantially less than the price farmers supplying Muscatine now receive and no corresponding benefit would accrue to farmers on non-Grade A milk delivered at Quad Cities plants. It appears therefore that to add Muscatine to the marketing area and to regulate non-Grade A milk would very adversely affect one group of dairy farmers, while furnishing only slight benefits to the other group concerned. A similar proposal to extend the marketing area to include Muscatine was considered at the hearing conducted in May of 1951. At that time the proposal was denied for similar reasons. Apparently competitive conditions in Muscatine have not been such as to adversely affect the operations of Quad Cities handlers disposing of milk in Muscatine, for no such handler advocated the inclusion of Muscatine in the marketing area.

With respect to the proposal to include Fulton in the marketing area it appears that Fulton has no health ordinance which fixes requirements with which fluid milk must comply to be sold in the city. It appears also that there are no handlers who are located within the corporate limits of Fulton. Milk is distributed in Fulton by Clinton handlers and by handlers from other communities of Illinois. While the geographical location of Fulton, which is contiguous to the city of Clinton, makes it appear that it might be a part of the natural marketing area of Clinton handlers, the evidence contained in the record concerning actual marketing conditions for milk in Fulton is insufficient to warrant its inclusion in the marketing area at this time.

2. The provisions of the marketing order should not be extended to the regulation and pricing of non-Grade A milk disposed of by plants within the marketing area.

All of the communities within the present marketing area have Grade A milk ordinances, and non-Grade A milk is not permitted to be bottled or sold by any handler now subject to the order. A substantial volume of non-Grade A milk, however, is regularly received by two of the cooperative associations and by at least one of the proprietary handlers in the Quad Cities. This milk is used exclusively for manufacturing. At least one of the handlers uses this milk primarily in Class II utilization. The two cooperative associations dispose of a portion of their receipts of non-Grade A milk to other handlers for utilization in Class II, and manufacture the remainder of it into Class III products in their own plants. Since that portion of the milk which must be utilized in Class III returns less than the Class II price, the prices which the cooperative associations are able to pay their member farmers who produce non-Grade A milk are somewhat less than the prices proprietary handlers are able to pay nonmember farmers for the non-Grade A milk which they receive and utilize in Class II products. The desire to effect an equalization of prices between the two groups of farmers led to the proposal to extend the scope of the order to the regulation of non-Grade A milk.

Until 2 years ago, all of the non-Grade A milk received by handlers was purchased through the cooperative associations. At that time non-Grade A milk was regulated and priced by the marketing order, since it had been a part of the

regular supply produced for sale in fluid form in the marketing area. As soon as all of the communities in the area required Grade A milk for fluid use and non-Grade A milk was no longer acceptable for sale in bottles, it was withdrawn from regulation under the order. Since then proprietary handlers have built up an additional supply of non-Grade A milk from farmers who are not members of the cooperative associations.

The largest user of non-Grade A milk in the market testified that he found it necessary to secure additional sources of supply because of the unwillingness of the associations to sell non-Grade A milk at the Class II price, except during the flush production months, and because of the inability of the associations to furnish a sufficient supply on a year around basis. This handler further testified that during the period in which he had been building up his own supply, he had increased his purchases of non-Grade A milk from the cooperative associations.

While the existing situation may work a hardship on the cooperative associations and increase the difficulties of maintaining their membership among non-Grade A producers, it appears that it is a problem which should be solved outside the marketing order program. The marketing order is intended to regulate that milk which is produced for and eligible for distribution as fluid milk within the Quad Cities marketing area. To apply the regulation to such milk would be an extension of its scope beyond that necessary to provide an adequate supply of pure and wholesome milk for the marketing area.

As a part of the proposal to regulate non-Grade A milk, the proponents also supported a revision of the definition of "producer," the inclusion of a definition of "Grade A milk," and an extensive revision of those provisions of the order relating to the allocation of milk in a handler's plant and the computation of uniform prices. Since it has been concluded that non-Grade A milk should not be regulated, no consideration has been given to these proposals which would be necessary or desirable only in the event non-Grade A milk were regulated.

3. The cooperative associations proposed that the definition of "Pool Plant" be revised to enumerate qualifications to establish the association of a country plant with the market. Specifically it was proposed that such a plant, in addition to holding the necessary health approval, must dispose of at least 50 percent of its receipts as Class I milk to city bottling plants of handlers during the months of October, November and December, for its milk to be pooled during the following months.

It appears from the record that the associations are fearful that a plant which is primarily a manufacturing plant or a plant whose principal outlet for fluid milk is the deficit area in the South during the short production months, may seek an outlet in the Quad Cities to enhance its ability to pay higher prices to its farmers during the flush months when the bulk of its milk is utilized in manufactured products. The present order contains no performance requirements and a token shipment will qualify a plant, which otherwise meets the requirements of a pool plant, for participation in the market wide pool.

The proponents of the proposal, however, failed to submit evidence as to the procedure to be followed in the treatment of milk which might be disposed of in the area by a plant which failed to meet the proposed standards. Adoption of the definition as proposed would exempt such milk completely from the provisions of the order and would permit the free flow of unregulated milk in the market. The proponents indicated that they did not intend this result but were desirous of adding to the order a "pool plant" provision similar to that contained in the Chicago marketing order. Similar provisions are contained in several other marketing orders.

While it appears that such a provision would tend to prevent the development of conditions which might adversely affect the stability of the market, the evidence in the present record is too limited to warrant effecting such an amendment. Accordingly it must be concluded that no action be taken until a further hearing has been conducted and additional evidence on the proposal submitted.

4. The definitions of Class II and Class III milk should not be changed at this time to classify all cheese, other than cottage cheese, as Class III. The proponents of the amendment indicated that there are within the milkshed several Swiss Cheese plants which customarily purchase skim milk to standardize the milk used in making Swiss Cheese. They allege that because of the comparatively high price of skim milk in Class II, they have been at a disadvantage in disposing of skim milk to such outlets, particularly in competition with plants subject to the Chicago order. Reports of the market administrator show that recently the price of skim milk in Class II milk has been less than the price of skim milk in Class III. Unless the condenseries whose paying prices are used in determining Class II prices increase their prices substantially in relation to the market prices of butter and nonfat solids, this situation will continue for the remainder of the heavy production season. It appears therefore that adoption of the proposal would defeat the ends sought by the proponents and would aggravate rather than ease the maladjustment which they allege exists.

5. With respect to the proposal to provide location differentials at country plants, the evidence is too limited to warrrant amending the order at this time. At the present time there are two country plants supplying milk to the Quad Cities, one at Mount Carroll, Illinois, and the other at Strawberry Point, Iowa. With respect to the costs of handling and transporting milk from Strawberry Point, the record is silent. With respect to the Mount Carroll plant, the evidence indicates that the actual cost of moving the milk is 10 cents per hundredweight. The proponents, however, recommended a schedule of differentials that would approximate 4 cents at Mount Carroll. They argued that a greater differential would disturb intermarket relationships and might result in a diversion of milk from that plant to other markets whose milksheds are contiguous. At the present time the association which operates the plant is deducting 5 cents per hundredweight from producers on milk received at Mount Carroll to defray the cost of transporting that portion of the milk actually moved to the marketing area. It appears from the record that the total deductions are very slightly in excess of the amount required to transport to the market the portion of the milk required for fluid disposition.

Before any action is taken to fix location differentials in the order a much more comprehensive analysis should be made of the actual costs of moving milk to the market both from country plants and direct from producers' farms. Such a survey should also include a study of the intermarket aspects of the problem, particularly a comparison of the net farm returns to producers shipping to country plants with those of producers similarly located who are shipping to other markets particularly, Chicago, Dubuque, and Cedar Rapids.

6. The proposal to permit the subtraction of nonfat milk solids used to fortify other dairy products from the class in which they are used should be denied. The proposal in its original form was so general as to have made enforcement virtually impossible. As modified by the testimony of the proponents the proposal would be more restrictive but would still permit the liberal use of other source solids to the detriment of producers on the market. The proponents argued that when powder is used to fortify skim milk drinks the user is required by the health authority having jurisdiction over his plant to use powder which has been made from Grade A milk. The record is silent as to the requirements of the other health departments in the area. The record further indicates that it is possible to use solids in other forms to fortify such milk drinks, and that the use of powder is a matter of convenience and availability to the proponent. Under the circumstances the proposal should be denied.

7. The proposal to allocate shrinkage between city and country plants on milk which is transferred in bulk from a country to a city plant should be denied at this time. While it appears logical that such a proration should be made, the evidence consists largely of argument between proponents and opponents as to the adequacy or accuracy of the butterfat testing at the two plants. Since it appears likely that a further hearing will be necessary to receive additional evidence on some of the proposals discussed above, action on this proposal should be postponed pending the receipt of further evidence at such hearing.

8. No action should be taken at this time with respect to the proposal to permit handlers to discharge their obligations to producers and cooperative associations by making payment to the market administrator of an amount equal to the total value of the milk received by such handlers from producers and cooperative associations. The order regu-

lating the handling of milk in the Clinton, Iowa, marketing area contained such a provision, but it was dropped when the Clinton marketing area was merged with the Quad Cities marketing area on December 1, 1951. Clinton handlers are desirous that such a provision be placed in the order so that they can resume the practice which they followed under the Clinton order. Experience under the Clinton order indicated that the procedure was feasible and was highly satisfactory to both producers and handlers. Two of the cooperative associations under the Quad Cities order, however, are handlers and are paid class prices, rather than uniform prices for their milk. A further exploration of the advisability of limiting the proposal to cooperative associations which are not handlers appears desirable. Accordingly action on this proposal should also be postponed pending the receipt of further evidence at another hearing.

9. The evidence does not indicate the need for increasing the rate of the marketing service assessment from 6 cents to 8 cents. The cooperative associations, in supporting the proposal, indicated they feel the market administrator should furnish non-member producers with services identical to those furnished their own members by the cooperative associations. The services, however, which are given non-members by the market administrator are comparable to those furnished by the cooperative associations and adequately comply with the standards fixed by the order and the act. The market administrator presented no evidence to show that the present rate of assessment is insufficient to finance the marketing service functions of his office. Therefore, there appears to be no reason for an increase in the amount of the assessment.

10. In addition to the proposals discussed above, the notice of hearing contained a proposal to revise the definition of emergency milk. The handler who made the proposal abandoned it on the record, however, and no other person testified with regard to the matter; Hence, no consideration has been given to it. No proposals were made and no testimony offered in support of any substantive changes in the provisions of the order other than those discussed above.

Proposed findings and conclusions. Several briefs were filed on behalf of three of the producers' associations and one of the handlers in the market. The briefs contained proposed findings of fact, conclusions, and arguments with respect to the proposals discussed at the hearing. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein the request to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions in this decision.

[F. R. Doc. 53-5411; Filed, June 17, 1953; 8:54 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Docket No. 10409]

PRACTICE AND PROCEDURE

FILING OF CONTRACTS, BROADCAST LICENSEES AND PERMITTEES

In the matter of amendment of § 1.342 of the Commission's rules; Docket No. 10409.

1. Notice is hereby given of further proposed rule making in the above-entitled matter.

2. On February 19, 1953, the Commission issued a notice of proposed rule making (FCC 53-178) in this proceeding, pointing out that the purpose of § 1.342 is to specify the documents, instruments, and contracts relating to ownership, management, operation and control of stations which broadcast licensees and permittees are required to file with the Commission so that it might be fully apprised of such matters. In that notice the Commission stated that its experience in the administration of the rule indicated that the provisions of the rule were ambiguous and that it was not necessary for some of the documents, instruments and contracts covered by the rule to be filed with the Commission. The Commission therefore proposed that § 1.342 be amended to require the filing of only the following:

(a) Documents, instruments or contracts relating to network service.

(1) This provision is intended to keep the Commission informed of compliance with its rules relating to chain broadcasting.

(2) Under this provision the filing of the following would not be required: Transcription agreements, contracts for the supplying of film for TV stations, contracts granting licensees the right to broadcast music such as BMI, SESAC, or ASCAP agreements, contracts with news associations, and similar agreements. This provision would require the filing of only network affiliation agreements.

(b) Documents, instruments or contracts relating to the ownership or control of the licensee or permittee, or of the licensee's or permittee's stock, rights or interests therein, or relating to changes in such ownership or control.

(1) This provision is intended to keep the Commission fully informed with respect to the ownership and control of its broadcast licensees and permittees and changes in such ownership and control, and to enable the Commission to be advised of compliance with its rules relating to these matters.

(2) This provision requires the filing of agreements relating to the ownership and control of licensees and permittees, or changes in such ownership and control, and is limited to the following:

(i) Articles of partnership, association, or incorporation and changes in such instruments.

(ii) Bylaws affecting the charter of organization, control, number or powers of its officers or directors, or the classification or voting rights of any stock, and any instruments affecting changes in such bylaws.

(iii) Any agreement, direct or indirect, affecting the ownership, or voting rights of licensee's or permittee's stock, such as agreements for (*a*) a transfer of stock, (*b*) issuance of new stock, (*c*) acquisition of licensee's or permittee's stock by the issuing licensee corporation.

(iv) Proxies with respect to the licensee's or permittee's stock running for a period in excess of one year. As to proxies given without full and detailed instructions binding the recipient to act in a specified manner, a report showing the number of such proxies, by whom given and received, and the percentage of outstanding stock represented by each proxy shall be submitted by the licensee or permittee within 30 days after the stockholders' meeting in question.

(v) Mortgage or loan agreements containing provisions restricting the licensee's freedom of operation, such as those specifying or limiting the amount of dividends payable, the purchase of new equipment, the maintenance of current assets, etc.

(vi) Any agreement reflecting a change in the officers, directors, or stockholders of a corporation other than the licensee or permittee having an interest, direct or indirect, in the licensee or permittee as specified in § 1.343.

Agreements excepted from filing under the provisions of § 1.343 are similarly excepted here.

The term "stock" includes any interest, legal or beneficial in, or right or privilege in connection with stock. The terms "officer" and "director" include the comparable officials of unincorporated associations. "Documents, instruments or contracts" include any agreement (including, without limitation, trusts or executory agreements such as an option or a pledge) or any modification therefor, express or implied, oral or written.

(c) Documents, instruments or contracts relating to the sale of broadcast time for resale.

(1) The purpose of this provision is to keep the Commission advised of "time brokerage" agreements entered into by its licensees and permittees.

(d) Contracts relating to functional music operations such as "storecasting," "transitcasting," and "background music," and similar services.

(1) The purpose of this provision is to keep the Commission advised of the various functional music operations carried on by its licensees and permittees.

(2) This provision relates to the following and similar services:

Storecasting. (Arrangements whereby programs originating in the broadcast studio are designed for and picked up by fixed frequency receivers installed at stores.)

Transitcasting. (Same as storecasting except that programs are designed to reach transit passengers in public vehicles, the receivers being installed in such vehicles.)

Background music services. (Arrangements whereby broadcasters undertake to supply programs of a background nature to commercial or industrial establishments such as factories, restaurants, barber shops, etc.)

This provision does not require the filing of contracts granting functional

music licensees the right to broadcast copyrighted music.

(e) Time sales contracts with the same sponsor for 2 hours or more per day, unless the length of the events broadcast pursuant to the contract is not under control of the station, e. g., athletic contests, musical programs and special events.

(1) This provision is intended to keep the Commission advised with respect to certain "bulk time sales" agreements entered into by its licensees and permittees.

(2) This provision would not require the filing of agreements entered into with sponsors for the broadcasting of baseball games, football games, and other athletic contests, musical programs such as concerts, operas, etc., and special events, where the length of the event being broadcast is not within the station's control, even though such programs may last for periods greater than 2 hours.

(f) Documents, instruments or contracts relating to the utilization in a management capacity of any person other than an officer, director, or regular employee of the licensee or permittee station, but also including the latter persons in all cases where such persons receive either a percentage of the net profits or share in any losses incurred in the licensee's operation.

(1) The purpose of this provision is to keep the Commission informed of agreements entered into by its licensees or permittees calling for the management of stations by anyone other than a regular employee, officer, or director of the station, and of agreements with the latter persons involving sharing in either net profits or losses of the licensee's operation.

(2) With the exception of the two situations set out, this provision would not require the filing of agreements with persons regularly employed as general or station manager, agreements with sales managers or salesmen, contracts with program managers and program personnel, contracts with chief engineers and other personnel in the engineering department, agreements with radio consulting engineers, accountants, attorneys, contracts with performers, station representative agreements, contracts with labor unions, and any similar agreements. It does require the filing of all management consultant agreements with independent contractors.

It was further proposed to amend the section so as not to require the verification of documents, instruments and contracts required to be filed thereunder.

3. Comments directed to the proposed amendment were filed by Westinghouse Radio Stations, Inc., Storer Broadcasting Company, National Broadcasting Company, Inc., Head of the Lakes Broadcasting Company, WCAR, Inc., and The National Association of Radio and Television Broadcasters.[1] All of the comments express accord with the purpose and objectives of the proposed amendment. Some of the comments, however, raise objections to specific portions of the proposed amendment, and these are discussed below. A number of the comments also request an opportunity to present views on the specific language of the amended rule before its adoption. Accordingly, the Commission is issuing this notice of further proposed rule making setting out the text of a proposed amendment, and is affording an opportunity for interested parties to comment thereon.

4. Storer Broadcasting Company raises the following objections to specific portions of the proposed amendment:

(a) Storer submits that the requirement in subpart (b) (ii) (b) concerning the filing of "bylaws affecting the charter of organization, control, number or powers of its officers or directors, or the classification of voting rights of any stock, and any instruments affecting changes in such bylaws" places an unnecessary burden on the licensee to determine which particular bylaws must be filed pursuant to the provision. Storer suggests, therefore, that the filing of all bylaws be required. The Commission believes Storer's suggestion is meritorious and the proposed rule as issued herewith requires the filing of all bylaws and amendments thereto.

(b) Storer suggests that the requirement in subpart (b) (ii) (c) for the filing of "any agreement, direct or indirect, affecting the ownership, or voting rights of licensee's or permittee's stock, such as agreements for (i) transfer of stock, (ii) issuance of new stock, (iii) acquisition of licensee's or permittee's stock by the issuing licensee corporation" be clarified by stating whether or not options to purchase stock should be filed. The Commission is of the view that options to purchase stock should be filed pursuant to the provisions of this subpart, and the amendment as now proposed expressly includes such options.

(c) Subpart (b) (ii) (d) of the proposed rule relating to proxies requires the filing of the following: "Proxies with respect to the licensee's or permittee's stock running for a period of in excess of one year. As to proxies given without full and detailed instructions binding the recipient to act in a specified manner, a report showing the number of such proxies, by whom given and received, and the percentage of outstanding stock represented by each proxy shall be submitted by the licensee or permittee within 30 days after the stockholders' meeting in question."

Storer states that the amendment is unclear as to whether the requirement relating to "unrestricted" proxies applies to all proxies, or only to those running for a period in excess of one year. Storer also states that this provision would impose on broadcasters two additional requirements not now specified by the rule. Storer asserts that those additional requirements are unnecessary since proxies, under general rules of law, are revocable unless coupled with an interest, and a revocable proxy cannot operate to transfer legal control. Storer submits that even proxies of more than one year's duration are subject to this general rule of law, and asserts that the proposed requirement would "impose a substantial burden on the licensee without any basis for doing so." It is argued that since substantially all proxies are of the "unrestricted" type, licensees in practically all cases will be required to file reports after every stockholders' meeting. Storer also urges that such information would be of little value to the Commission. The Commission believes that the proposed provisions relating to proxies are both necessary and reasonable requirements and will not place an undue burden on the licensee or permittee. Storer's contentions do not persuade us that such provisions should be deleted. We are of the view that the Commission should have information concerning all "unrestricted" proxies whether or not such proxies are revocable at will, in view of the power vested in the holder of the proxy. In addition, we believe it necessary to be apprised of all other proxies running for a period in excess of one year. The language has therefore been revised in the amendment as now proposed to make clear that all "unrestricted" proxies and all others of one year or more duration are covered by the rule.

(d) Subpart (e) of the proposed rule requires the filing of "time sales contracts with the same sponsor for 2 hours or more per day, unless the length of the events broadcast pursuant to the contract is not under control of the station, e. g., athletic contests, musical programs and special events." Storer notes that § 1.342 presently requires the filing of "agreements relating to bulk time sales (amounting to 2 hours or more per day)" and agreements relating to "time sales to brokers." Storer states that it has no objection to the filing of contracts reasonably necessary to permit the Commission to determine whether or not the licensee has abdicated to others the control of the programs of its station, and concedes that the filing of agreements relating to "time sales to brokers" or to the "sale of broadcast time for resale" would serve such purpose. However, Storer argues that agreements relating to "time sales contracts with the same sponsor for 2 hours or more per day " should be of no concern to the Commission since no expressed Commission policy prohibits such agreements if the time is not sold to a broker for resale. Storer urges, further, that such a prohibition would be an unlawful restriction on the licensee's right "to select its own sponsors and to sell any qualified and responsible sponsor as much time as it desires." Storer urges, therefore, that the provisions of subpart (e) of the proposed amendment be deleted. Agreements relating to the sale of time to one sponsor are not, of course, in and of themselves unlawful or not in the public interest. We do not agree, however, that such agreements are of no concern to the Commission, or that requiring the filing of such agreements unlawfully restricts the licensee's control over programming. Accordingly, we are not disposed to delete the provisions of subpart (e) However, we do believe that the 2 hours

[1] NARTB filed its comments on March 30, 1953, after the expiration of the time for filing of such comments, but requested that the Commission accept the late comment. The NARTB comment has been accepted by the Commission in this proceeding.

or more per day time period presently specified in the rule should be increased to 4 hours or more per day. The amendment as now proposed, therefore, requires the filing of time sales contracts with the same sponsor for 4 hours or more per day.

(e) Storer points out that § 1.342 as presently constituted provides for the filing of "management contracts" and submits that the Commission comprehends by this language contracts between the station licensee and another party where the management of the station has been irrevocably delegated, and that employer-employee relationships are not involved. Storer argues, therefore, that subpart (f) of the proposed amendment "goes far beyond the historic interpretation of the phrase 'management contract' by including therein contracts for the employment of officers, directors and other employees (i. e., operating personnel) where such persons 'receive either a percentage of the net profits or share in any losses incurred in the licensee's operation.'" Storer contends that since all stockholders and partners receive a percentage of the net profits as dividends or partnership distribution and that all partners share in losses, the proposed amendment would require the filing of every employment contract between a corporate licensee and any person who was both a stockholder or partner and an operating employee. Storer also states that the proposed amendment might be construed as requiring the filing of contracts for employment of station managers compensated by a salary plus a bonus based on a percentage of net operating profits. Storer asserts that such transactions do not involve abdication of management authority to the employee, and contends that the proposal goes too far in requiring the filing of "all managements consultant agreements with independent contractors." Storer urges that such agreements should be filed only where abdication of control might result. The Commission is of the view that agreements with persons other than regular employees of the licensee for management of the station should be filed pursuant to this provision. The Commission believes, in addition, that contracts for the management of the station with any persons, whether or not officers, directors or regular employees, providing for both a percentage of profits and a sharing in any losses should also be filed pursuant to this provision. However, contracts with regular employees, officers or directors which contain no provision for sharing profits or losses, or such agreements providing only for bonuses on the basis of percentage of profits without a requirement for sharing in losses, need not be filed. The amendment as now proposed has been revised accordingly.

5. National Broadcasting Company, Inc., in its comment states that while it is in accord with the proposed amendment, it objects to the following specific portions of the proposed rule:

(a) NBC asserts that some of the uncertainties of the old rule are perpetuated in the proposed amendment. NBC notes that subparts (a), (b), (c) and (f) require the filing of documents, instruments or contracts. NBC urges that the Commission is seeking information relating to "actual contracts, agreements or understandings" and recommends, therefore, that the terms "documents" and "instruments" be deleted. It is suggested, in addition, that the term "contract" be defined as "any contract, agreement or understanding, express or implied, oral or written" as presently provided by § 1.344 (c) of the rules. With respect to subpart (a) dealing with network affiliations, NBC argues that a literal interpretation of the amendment which requires the filing of "documents, instruments or contracts relating to networks service" would require the filing of "practically all communications between stations and networks." NBC asserts that much of this material should not be filed and urges, therefore, that subpart (a) be revised to read "contracts for network affiliation." We believe that NBC's suggestions have merit and have been incorporated in the amendment as now proposed. In this connection, the amendment as previously proposed did not make clear that where option time is provided in contracts for the sale of films for TV stations or in transcriptions agreements, such contracts must be filed. The rule as now proposed makes clear that such agreements are covered by this provision of the rule.

(b) NBC requests that subpart (b) which requires the filing of "Documents, instruments or contracts relating to the ownership or control of the licensee or permittee, or of the licensee's or permittee's stock, rights or interest therein, or relating to changes in such ownership or control" be made more definite and specific. NBC also urges deletion of subpart (b) (ii) (e) which requires the filing of "mortgage or loan agreements containing provisions restricting the licensee's freedom of operation, such as those specifying or limiting the amount of dividends payable, the purchase of new equipment, the maintenance of current assets, etc." NBC asserts that this provision would require the filing of every mortgage or loan agreement since all such agreements contain standard restrictive clauses. NBC urges, further, that in the event of default and the possible change of control of a licensee, statutory provisions of the Communications Act and Commission's rules would require a full disclosure and prior Commission approval. We do not agree that the filing of mortgage or loan agreements restricting the freedom of operation of broadcasters would be of no concern to the Commission, and we believe such agreements should be filed.

(c) NBC suggests that subpart (c) which requires the filing of "documents, instruments or contracts relating to the sale of broadcast time for resale" be revised as follows: "Contracts with time brokers relating to the sale of broadcast time for resale." NBC urges that such language would be similar to that in the present rule, and that unless the phrase "time brokers" or "time brokerage" is incorporated in the rule, the argument could be made that all agreements between the station and others concerning the sale of broadcast time would have to be filed. We believe that the suggested change has merit and it has been incorporated in the amendment as now proposed.

(d) NBC urges that subpart (e) dealing with contracts with the same sponsors for two or more hours per day be eliminated, contending that "bulk time sales" concerns the Commission only where there is a resale by a time broker. This suggestion has been considered above in connection with the comments of Storer Broadcasting Company.

6. Head of the Lakes Broadcasting Company, Duluth, Minnesota, filed a comment approving the purpose of the proposed amendment but raising the following specific objections:

(a) Head of the Lakes urges that an ambiguity exists in subpart (c) providing for the filing of "documents, instruments or contracts relating to the sale of broadcast time for resale." We believe that the changes adopted in connection with the NBC comment specifying sale of broadcast time to a "time broker" for resale solves this problem.

(b) Head of the Lakes points out that subpart (b) (ii) (c) provides that "any agreement" for the issuance of new stock must be filed, and urges that the word "agreement" is incorrectly used. The rule as now proposed, has been revised accordingly.

(c) Head of the Lakes notes that subpart (f) requires the filing of contracts where persons "receive either a percentage of the net profits or share in any losses incurred in the licensee's operation." It is contended that such language is too broad and might be construed to include contracts for all personnel of a station where year-end bonuses are granted on the basis of profits, even though the contract does not so specify. We believe that the change made above in connection with the Storer comment cures this problem.

(d) Head of the Lakes urges that the proposed amendment will require the filing of documents which may prove competitively beneficial to other stations if made available to them. It is suggested, therefore, that the Commission designate which contracts would be kept confidential. Section 0.206 of the Commission's rules, which relates to the inspection of records, expressly provides that "networks and transcription contracts filed pursuant to § 1.342 shall not be open to public inspection." This rule provides further that the Commission may "either on its own motion, or on motion of an applicant, permittee, or licensee, for good cause shown, designate any of the material in this subsection as confidential." We believe the provisions of section 0.206 are adequate in this regard and that the Head of the Lakes suggestion is therefore unnecessary.

7. WCAR, Inc., in its comment notes its general approval of the proposed amendment, but suggests a clarifying provision to cover certain cases involving sponsored athletic contests and special events. It is noted that in many cases the contract is placed with the station, not directly by the sponsor, but by the advertising agency. It is urged that no question of broadcast time being bought

by the agency for resale is involved, and it is suggested that the rule should not apply to those contracts between stations and agencies wherein the agency names specifically the company whose products will be advertised. We believe such a provision is unnecessary since the rule as now proposed provides only for the sale of time to time brokers for resale. With respect to bulk time sales to the same sponsor, we have increased the time to 4 hours or more per day.

8. NARTB filed a comment agreeing with the intent and objectives of the proposed amendment, but raising the following specific objections:

(a) NARTB urges that subpart (b) (ii) (e) relating to mortgage or loan agreements should be deleted since, as presently conceived, it would require the filing of all mortgage or loan agreements. This contention has been discussed above and rejected in connection with the comment of Storer Broadcasting Company.

(b) NARTB urges that subpart (e) relating to time sales contracts with the same sponsor be eliminated, contending that subpart (c) adequately covers the material within the purpose and intent of the rule. This matter has also been discussed above in connection with Storer's comment. As noted, the amendment as now proposed has been revised to require the filing of times sales contracts with the same sponsor for 4 hours or more per day.

(c) With respect to subpart (f) NARTB suggests the requirement be delimited only to those features referencing parties in a management capacity other than officers, directors or regular employees of the licensee. This matter has also been discussed above in connection with the comment of Storer Company.

9. In view of the foregoing, the Commission proposes to amend § 1.342 as set out below.

10. Authority for the adoption of the proposed amendment is contained in sections 4 (i) 301 (i) (j) (n) and (r) 309 (d) 310 and 312 of the Communications Act of 1934, as amended.

11. Any interested party who is of the opinion that the proposed amendment should not be adopted or should not be adopted as proposed herein may file with the Commission on or before July 13, 1953, a written statement or brief setting forth his comments. Comments in support of the proposed amendments may also be filed on or before the same date. Comments or briefs in reply to the original comments or briefs may be filed within 10 days from the last day for filing said original comments or briefs. The Commission will consider all such comments that are submitted before taking action in this matter, and if any comments appear to warrant the holding of a hearing or oral argument, notice of the time and place of such hearing or argument will be given.

12. In accordance with the provisions of § 1.784 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs or comments shall be furnished the Commission.

Adopted: June 10, 1953.

Released: June 11, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

Section 1.342 of the Commission's rules and regulations is proposed to be amended by deleting the present text and substituting the following:

§ 1.342. *Filing of contracts, broadcast licensees and permittees.* Each licensee or permittee of a standard, FM, television, or international broadcast station shall file with the Commission within 30 days of execution thereof copies of the following contracts, instruments and documents, together with amendments, supplements and cancellations. The term "contract" as used in this section includes any contract, express or implied, oral or written. The substance of oral contracts shall be reported in writing:

(a) Contracts relating to network service. This provision does not require the filing of transcription agreements or contracts for the supplying of film for television stations which do not specify option time, contracts granting the right to broadcast music such as ASCAP BMI, or SESAC agreements, contracts with news associations, or similar agreements. Transcriptions agreements or contracts for the supplying of film for television stations which do specify option time must be filed.

(b) Contracts, instruments or documents relating to the present or future ownership or control of the licensee or permittee, or of the licensee's or permittee's stock, rights or interests therein, or relating to changes in such ownership or control. All contracts, instruments and documents exempted from the requirements of § 1.343 are similarly exempted in this section. The term "stock" includes any interest in legal or beneficial, right or privilege in connection with stock. The terms "officers" and "directors" include the comparable officials of unincorporated associations. This provision is limited to the following:

(1) Articles of partnership, association and incorporation and changes in such instruments.

(2) Bylaws and any instruments affecting changes in such bylaws.

(3) Any agreement, document or instrument affecting, directly or indirectly, the ownership or voting rights of the licensee's or permittee's stock (common or preferred, voting or non-voting stock) such as (i) agreements for transfer of stock, (ii) instruments for the issuance of new stock, (iii) or agreements for the acquisition of licensee's or permittee's stock by the issuing licensee or permittee corporation. Options to purchase stock, pledges, trusts agreements, and other executory agreements are required to be filed.

(4) Proxies with respect to the licensee's or permittee's stock running for a period in excess of one year; and all proxies, whether or not running for a period of one year, given without full and detailed instructions binding the recipient to act in a specified manner. With respect to the latter proxies given without full and detailed instructions, a statement showing the number of such proxies, by whom given and received, and the percentage of outstanding stock represented by each proxy shall be submitted by the licensee or permittee within 30 days after the stockholders' meeting in which the stock covered by such proxies has been voted.

(5) Mortgage or loan agreements containing provisions restricting the licensee's or permittee's freedom of operation, such as those specifying or limiting the amount of dividends payable, the purchase of new equipment, the maintenance of current assets, etc.

(6) Any agreement reflecting a change in the officers, directors, or stockholders of a corporation other than the licensee or permittee having an interest, direct or indirect, in the licensee or permittee as specified by § 1.343.

(c) Contracts relating to the sale of broadcast time to "time brokers" for resale.

(d) Contracts relating to functional music operations such as "storecasting", "transitcasting" "background music", and similar services. This provision does not require the filing of contracts granting functional music licensees or permittees the right to broadcast copyright music.

(e) Time sales contracts with the same sponsor for 4 or more hours per day, unless the length of the events broadcast pursuant to the contract is not under control of the station, such as athletic contests, musical programs and special events.

(f) Contracts relating to the utilization in a management capacity of any person other than an officer, director, or regular employee of the licensee or permittee station, and management contracts with any persons, whether or not officers, directors, or regular employees which provide for both a percentage of profits and a sharing in losses. With the above exceptions, this provision does not require the filing of agreements with persons regularly employed as general or station managers or salesmen, contracts with program managers or program personnel, contracts with Chief Engineers or other engineering personnel, contracts with consulting radio engineers, attorneys, or accountants, contracts with performers, contracts with station representatives, contracts with labor unions, or any similar agreements. It does require the filing of management consultant agreements with independent contractors.

[F. R. Doc. 53-5398; Filed, June 17, 1953; 8:52 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Bureau of Customs

[492.23]

PLASTIC BADMINTON SHUTTLECOCKS

NOTICE OF PROSPECTIVE CLASSIFICATION

JUNE 15, 1953.

It appears that plastic badminton shuttlecocks are properly classifiable as articles similar to articles composed wholly or in chief value of feathers under paragraph 1518, Tariff Act of 1930, as modified, by virtue of similitude clause in paragraph 1559 of the act, at a rate of duty higher than that heretofore assessed under a uniform practice.

Pursuant to § 16.10a (d) Customs Regulations of 1943 (19 CFR 16.10a (d)), notice is hereby given that the existing uniform practice of classifying such merchandise under paragraph 1558 as nonenumerated manufactured articles is under review in the Bureau of Customs.

Consideration will be given to any relevant data, views, or arguments pertaining to the correct tariff classification of this merchandise which are submitted in writing to the Bureau of Customs, Washington 25, D. C. To assure consideration, such communications must be received in the Bureau not later than 30 days from the date of publication of this notice. No hearings will be held.

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

[F. R. Doc. 53-5404; Filed, June 17, 1953; 8:53 a. m.]

[462.522]

NON-DEBITTERED DRIED BREWERS YEAST

NOTICE OF PROSPECTIVE CLASSIFICATION

JUNE 15, 1953.

It appears probable that non-debittered dried brewers yeast is properly classifiable as "Yeast" under paragraph 1558, Tariff Act of 1930, as modified, at a rate of duty higher than that heretofore assessed under a uniform practice.

Pursuant to § 16.10a (d) Customs Regulations of 1943 (19 CFR 16.10a (d)), notice is hereby given that the existing uniform practice of classifying such merchandise under paragraph 1669 as a crude drug, or under paragraph 34 as an advanced drug is under review in the Bureau of Customs.

Consideration will be given to any relevant data, views, or arguments pertaining to the correct tariff classification of this merchandise which are submitted in writing to the Bureau of Customs, Washington 25, D. C. To assure consideration, such communications must be received in the Bureau not later than 30 days from the date of publication of this notice. No hearings will be held.

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

[F. R. Doc. 53-5405; Filed, June 17, 1953; 8:53 a. m.]

Office of the Secretary

[Treasury Department Order 150-20]

BUREAU OF INTERNAL REVENUE REORGANIZATION

OFFICES OF REGIONAL COMMISSIONER AND DISTRICT DIRECTOR OF INTERNAL REVENUE

By virtue of the authority vested in me as Secretary of the Treasury, it is hereby ordered:

1. *Regional Commissioner of Internal Revenue.* Each office of District Commissioner of Internal Revenue shall bear the operating title of "Regional Commissioner of Internal Revenue", identified by the name of the city in which the headquarters office is located.

2. *District Director of Internal Revenue.* The title of each office of Director of Internal Revenue shall be changed to "District Director of Internal Revenue", identified by the name of the city or subdivision thereof in which the headquarters office is located.

3. *Establishment of offices and boundaries of Regional Commissioner*—(a) *Atlanta.* There is established an office of Regional Commissioner of Internal Revenue, Atlanta, which shall be comprised of the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee, and the Canal Zone. The headquarters office shall be in Atlanta, Georgia.

(b) *Boston.* There is established an office of Regional Commissioner of Internal Revenue, Boston, which shall be comprised of the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The headquarters office shall be in Boston, Massachusetts.

(c) *Chicago.* There is established an office of Regional Commissioner of Internal Revenue, Chicago, which shall be comprised of the States of Illinois, Michigan, and Wisconsin. The headquarters office shall be in Chicago, Illinois.

(d) *Cincinnati.* There is established an office of Regional Commissioner of Internal Revenue, Cincinnati, which shall be comprised of the States of Indiana, Kentucky, Ohio, Virginia, and West Virginia. The headquarters office shall be in Cincinnati, Ohio.

(e) *Dallas.* There is established an office of Regional Commissioner of Internal Revenue, Dallas, which shall be comprised of the States of Arkansas, Louisiana, Oklahoma, New Mexico, and Texas. The headquarters office shall be in Dallas, Texas.

(f) *New York City.* There is established an office of Regional Commissioner of Internal Revenue, New York City, which shall be comprised of the State of New York and Puerto Rico and Virgin Islands of the United States. The headquarters office shall be in New York, New York.

(g) *Omaha.* There is established an office of Regional Commissioner of Internal Revenue, Omaha, which shall be comprised of the States of Colorado, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wyoming. The headquarters office shall be in Omaha, Nebraska.

(h) *Philadelphia.* There is established an office of Regional Commissioner of Internal Revenue, Philadelphia, which shall be comprised of the States of Delaware, Maryland, New Jersey, and Pennsylvania, and the District of Columbia. The headquarters office shall be in Philadelphia, Pennsylvania.

(i) *San Francisco.* There is established an office of Regional Commissioner of Internal Revenue, San Francisco, which shall be comprised of the States of Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, and Washington, and the Territories of Alaska and Hawaii. The headquarters office shall be in San Francisco, California.

4. *Abolition of certain offices of District Commissioner.* The offices of District Commissioner of Internal Revenue established prior to the effective date of this order are abolished.

5. *Regional office in which office of District Director included.* The office of any District Director of Internal Revenue included within the territory comprising the office of a Regional Commissioner of Internal Revenue shall be included within the office of such Regional Commissioner.

6. *Internal Revenue Districts.* Each district established pursuant to section 3650 of the Internal Revenue Code shall be known as an internal revenue district and shall be identified by the name of the city or subdivision thereof in which the headquarters office of the District Director of Internal Revenue is located.

7. *Puerto Rico and Virgin Islands of United States included in Internal Revenue District, Lower Manhattan.* Puerto Rico and the Virgin Islands of the United States, now comprising a part of the Internal Revenue District, Baltimore, shall be and they are transferred to and made a part of the Internal Revenue District, Lower Manhattan.

8. *Inconsistent provision.* Any provision of any order inconsistent with any provision of this order is modified to the extent of such inconsistency.

9. *Effective date.* This order shall be effective July 1, 1953.

Dated: June 15, 1953.

[SEAL] M. B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 53-5407; Filed, June 17, 1953; 8:54 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Misc. 5-3]

ARIZONA

ORDER PROVIDING FOR OPENING OF PUBLIC LANDS

JUNE 12, 1953.

In exchanges of lands made under the provisions of section 8 of the act of June 28, 1934 (48 Stat. 1269), as amended June

26, 1936 (49 Stat. 1976, 43 U. S. C. sec. 315g) the following described lands have been reconveyed to the United States:

GILA AND SALT RIVER BASE AND MERIDIAN

T. 41 N., R. 1 E.,
Sec. 36: All.
T. 40 N., R. 5 E.,
Sec. 16: All.
T. 39 N., R. 6 E.,
Sec. 16: All.
T. 40 N., R. 6 E.,
Sec. 16: All.
T. 38 N., R. 1 W.,
Sec. 2: N½, N½S½.
T. 39 N., R. 1 W.,
Sec. 2: Lots 1, 2, 3, 4, S½N½, N½SW¼, SE¼.
T. 36 N., R. 9 W.,
Sec. 2: NE¼SE¼.
T. 35 N., R. 14 W.,
Sec. 32: E½SE¼.
T. 37 N., R. 14 W.,
Sec. 36: SE¼NE¼.
T. 42 N., R. 14 W.,
Sec. 32: Lots 1, 2, 3, 4, S½,
Sec. 36: Lots 1, 2, 3, 4, S½.
T. 42 N., R. 15 W.,
Sec. 32: Lots 1, 2, 3, 4, S½,
Sec. 36: Lots 1, 2, 3, 4, S½.
T. 41 N., R. 16 W.,
Sec. 32: Lots 1, 2, 3, 4, E½E½.
T. 42 N., R. 16 W.,
Sec. 32: Lots 1, 2, 3,
Sec. 36: Lot 4, S½.

Land in T. 35 N., R. 14 W., is mountainous bench land sloping to the northeast, with desert vegetation. Elevation is 3,600 to 3,800 feet.

Land in T. 36 N., R. 9 W., is rolling to hilly plain, underlain by limestone which is covered by red clay in the small valleys. Vegetation is sagebrush, with some cedar and pinon, and grama grass.

Land in T. 37 N., R. 14 W., lies on an east-northeast slope; between 4500 and 5000 feet elevation, with desert vegetation.

Lands in T. 38 N., R. 1 W., and T. 39 N., R. 1 W., lie in rolling to hilly plain, about 30 miles from the north rim of the Grand Canyon. Soil is sandy clay, mixed with some limestone rock, and vegetation consists mostly of dense cedar and pinon.

Lands in T. 39 N., R. 6 E., T. 40 N., Rs. 5 and 6 E., are characterized by sand dunes and pocket valleys, with some rocky ridges. They are not suitable for agriculture because of dearth of water. Vegetation is semi-desert, with some pinon and scrub juniper.

Lands in T. 41 N., R. 1 E., are situated at the north end of Kaibab Mountain. The east half of the section is plateau. Vegetation consists of pinon, juniper, big sage, black sage and blue grama. There is no agricultural value.

Lands in T. 41 N., R. 16 W., 42 N., R. 16 W., and Sec. 32, T. 42 N., R. 15 W., are gently rolling and covered with sandy clay soil and desert-type vegetation. Lands in T. 42 N., R. 14 W., and in Sec. 36, T. 42 N., R. 15 W., are rough, precipitous and barren.

No applications for these lands may be allowed under the homestead, small tract, desert-land or any other nonmineral public-land laws unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon consideration of an application. It is unlikely that the lands will be classified for homestead, small tract, or desert-land use.

This order shall not otherwise become effective to change the status of such lands until 10:00 a. m. on the 35th day after the date of this order. At that time the said lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, and selection as follows:

(a) *Ninety-one day period for preference-right filings.* For a period of 91 days, commencing at the hour and on the day specified above, the public lands affected by this order shall be subject only to (1) application under the homestead or the desert-land laws or the Small Tract Act of June 1, 1938, 52 Stat. 609 (43 U. S. C. 682a) as amended, by qualified veterans of World War II and other qualified persons entitled to preference under the act of September 27, 1944, 58 Stat. 747 (43 U. S. C. 279–284) as amended, subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications under subdivision (1) of this paragraph shall be subject to applications and claims of the classes described in subdivision (2) of this paragraph. All applications filed under this paragraph either at or before 10:00 a. m. on the 35th day after the date of this order shall be treated as though filed simultaneously at that time. All applications filed under this paragraph after 10:00 a. m. on the said 35th day shall be considered in the order of filing.

(b) *Date for non-preference-right filings.* Commencing at 10:00 a. m. on the 126th day after the date of this order, any lands remaining unappropriated shall become subject to such application, petition, location, selection, or other appropriation by the public generally as may be authorized by the public-land laws. All such applications filed either at or before 10:00 a. m. on the 126th day after the date of this order, shall be treated as though filed simultaneously at the hour specified on such 126th day. All applications filed thereafter shall be considered in the order of filing.

A veteran shall accompany his application with a complete photostatic, or other copy (both sides) of his certificate of honorable discharge, or of an official document of his branch of the service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the Land and Survey Office, Phoenix, Arizona, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations and Part 296 of that title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of Title 43 of the Code of Federal Regulations, and applications under the desert-land laws and the said Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Parts 232 and 257, respectively, of that title.

Inquiries concerning these lands shall be addressed to the Manager, Land and Survey Office, Phoenix, Arizona.

E. R. SMITH,
Regional Administrator

[F. R. Doc. 53-5391; Filed, June 17, 1953; 8:50 a. m.]

[Misc. 5-4]

NEW MEXICO

ORDER PROVIDING FOR OPENING OF PUBLIC LANDS

JUNE 12, 1953.

In an exchange of lands made under the provisions of section 8 of the act of June 28, 1934 (48 Stat. 1269) as amended June 26, 1936 (49 Stat. 1976, 43 U. S. C. sec. 315g) the following described lands have been reconveyed to the United States:

NEW MEXICO PRINCIPAL MERIDIAN

T. 18 S., R. 2 W.,
Sec. 15, all.

The land lies about 25 miles north of Las Cruces, New Mexico along the A. T. & S. F Railroad right-of-way. It is cut by numerous draws. The soil is sandy and vegetation consists mostly of greasewood, mesquite and grama grass.

No applications for the land may be allowed under the homestead, small tract, desert-land or any other nonmineral public-land laws unless the land has already been classified as valuable or suitable for such type of application, or shall be so classified upon consideration of an application. It is unlikely that the land will be classified for homestead, small tract or desert-land use.

This order shall not otherwise become effective to change the status of such lands until 10:00 a. m. on the 35th day after the date of this order. At that time the said lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, and selection as follows:

(a) *Ninety-one day period for preference-right filings.* For a period of 91 days, commencing at the hour and on the day specified above, the public lands affected by this order shall be subject only to (1) application under the homestead or the desert-land laws or the Small Tract Act of June 1, 1938, 52 Stat. 609 (43 U. S. C. 682a), as amended, by qualified veterans of World War II and other qualified persons entitled to preference under the act of September 27,

1944, 58 Stat. 747 (43 U. S. C. 279–284), as amended, subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications under subdivision (1) of this paragraph shall be subject to applications and claims of the classes described in subdivision (2) of this paragraph. All applications filed under this paragraph either at or before 10:00 a. m. on the 35th day after the date of this order shall be treated as though filed simultaneously at that time. All applications filed under this paragraph after 10:00 a. m. on the said 35th day shall be considered in the order of filing.

(b) *Date for non-preference-right filings.* Commencing at 10:00 a. m. on the 126th day after the date of this order, any lands remaining unappropriated shall become subject to such application, petition, location, selection, or other appropriation by the public generally as may be authorized by the public-land laws. All such applications filed either at or before 10:00 a. m. on the 126th day after the date of this order, shall be treated as though filed simultaneously at the hour specified on such 126th day. All applications filed thereafter shall be considered in the order of filing.

A veteran shall accompany his application with a complete photostatic, or other copy (both sides) of his certificate of honorable discharge, or of an official document of his branch of the service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the Land and Survey Office, Santa Fe, New Mexico, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations and Part 296 of that title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of Title 43 of the Code of Federal Regulations, and applications under the desert-land laws and the said Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Parts 232 and 257, respectively, of that title.

Inquiries concerning these lands shall be addressed to the Manager, Land and Survey Office, Santa Fe, New Mexico.

E. R. SMITH,
Regional Administrator.

[F. R. Doc. 53-5392; Filed, June 17, 1953; 8:50 a. m.]

ARIZONA

CLASSIFICATION ORDER AMENDED

JUNE 12, 1953.

1. Pursuant to the authority delegated to me by the Director, Bureau of Land Management, by Order No. 427, dated August 16, 1950, 15 F. R. 5639, I hereby amend Arizona Small Tract Classification No. 22 approved August 31, 1950 (15 F. R. 6050) as hereinafter indicated:

2. The lands originally described as the W½W½SE¼ and E½E½SE¼ SW¼ are hereby redescribed and reclassified as follows:

(a) For lease and sale for homesites, business sites, or combination home and business sites:

T. 7 N., R. 2 E., G. & S. R. M., Arizona,
Sec. 34, lots 25, 26, 39 to 42, inclusive, 47 to 50, inclusive, 65 and 66,

containing 55.19 acres.

(b) All of the other provisions of Small Tract Classification No. 22, approved August 31, 1950, pertaining to the W½W½ SE¼ shall apply to lots 25, 26, 39, 40, 49, 50, 65 and 66. All of the other provisions of Small Tract Classification No. 22, approved August 31, 1950, pertaining to the E½E½SE¼SW¼ shall apply to lots 41, 42, 47 and 48.

3. The following described lands are hereby classified under the Small Tract Act of June 1, 1938 (52 Stat. 609) as amended July 14, 1945 (59 Stat. 467, 43 U. S. C. 682a)

(a) For lease and sale for homesites only:

T. 7 N., R. 2 E., G. & S. R. M., Arizona,
Sec. 34, lots 1, 3, 4, 5, 7 and 8,

containing 30.01 acres.

(b) For lease and sale for homesites, business sites, or combination home and business sites:

T. 7 N., R. 2 E., G. & S. R. M., Arizona,
Sec. 34, lots 43, 44, 45 and 46,

containing 10.18 acres.

4. As to applications regularly filed prior to 10:30 a. m., March 14, 1951 for lands described in 3 (a) and (b) above, and which are for the type of site for which the lands are classified, this order shall become effective upon the date it is signed.

5. This order shall not otherwise become effective to change the status of the lands described in 3 (a) and (b) above until 10:30 a. m. on the 35th day after the date of this order. At that time the said lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to applications under the Small Tract Act as follows:

(a) *Ninety-one day period for preference-right filings.* For a period of 91 days, commencing at the hour and on the day specified above, the public lands described in 3 (a) and (b) shall be subject only to applications under the Small Tract Act of June 1, 1938, 52 Stat. 609 (43 U. S. C. 682a) as amended, by qualified veterans of World War II, subject to the requirements of applicable law. All applications filed under this paragraph either at or before 10:30 a. m., on the 35th day after the date of this order shall be treated as though filed simultaneously at that time. All applications filed under this paragraph after 10:30 a. m. on the said 35th day shall be considered in the order of filing.

(b) *Date for non-preference-right filings.* Commencing at 10:30 a. m. on the 126th day after the date of this order, any lands remaining unappropriated shall become subject to disposal under the Small Tract Act only. All such applications filed either at or before 10:30 a. m. on the 126th day after the date of this order shall be treated as though filed simultaneously at the hour specified on such 126th day. All applications filed thereafter shall be considered in the order of filing.

6. A veteran shall accompany his application with a complete photostatic, or other copy (both sides) of his certificate of honorable discharge, or of an official document of his branch of the service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their application by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

7. Each of the lots described in 3 (a) and (b) above will be leased as one tract. Leases will be for a period of three years at annual rentals as hereinafter specified:

(a) Where applications are filed for homesites only, the annual rental of $5.00 will be payable for the entire lease period in advance of the issuance of the lease.

(b) Where applications are filed for business sites only, the minimum annual rental of $20.00 will be payable for the entire lease period in advance of the issuance of the lease.

(c) Where applications are filed for combination home and business sites, the annual rentals set forth in 7 (a) and (b) will be payable in the manner specified therein.

(d) In any and all cases where applications are filed and leases issued for business sites, the $20.00 business rental shall be the minimum rental for that purpose, and the lessee shall be obligated to pay additional rental at the rate fixed by the schedule of rentals in effect at the date of the approval of his lease. Such lessees or their authorized representatives shall, within 60 days after the expiration of each lease year, submit to the Manager of the Arizona Land and Survey Office a statement of the amount of the gross receipts for the preceding year. Authorized representatives of the Department of the Interior shall, at all times within customary business hours, have the right to inspect and examine the lessee's accounts and to inspect the premises leased.

8. Leases issued for lands described in 3 (a) and (b) will contain an option to

purchase clause at the appraised values as follows:

For tracts embracing lots 1, 3, 4, 5, 7 and 8, $75.00 per tract.

For tracts embracing lots 43, 44, 45 and 46, $100.00 per tract.

(a) Applications for purchase may be filed during the term of the lease but not more than 30 days prior to the expiration of one year from the date of the lease, provided minimum improvements as hereinafter specified shall have been constructed prior to the date of application to purchase:

For homesite, a habitable house of at least three rooms, containing a minimum floor area of 500 square feet, and adequate water and sanitary facilities.

For business site, improvements suitable for the purpose for which the lands are to be utilized, provided such improvements embrace an area of not less than 500 square feet.

For combination home and business site, minimum improvements as specified for both purposes above.

(b) Leases issued under the terms of this order shall not be subject to assignment unless and until improvements as mentioned in (a) shall have been completed.

(c) Leases for lands upon which the improvements above mentioned shall not have been constructed at or before the expiration thereof shall not be renewed.

9. Lessees and/or their successors in interest shall comply with all Federal, State, County, and municipal laws and ordinances, especially those governing health and sanitation, and failure or refusal to do so may be cause for cancellation of the lease in the discretion of the authorized officer of the Bureau of Land Management.

10. Tracts described in 3 (a) and (b) will be subject to all existing rights-of-way and to rights-of-way for road purposes and public utilities as follows:

33 feet along each edge of lots 1, 3, 4, 5, 7, and 8.

Such rights-of-way may be utilized by the Federal Government or the State, County or municipality in which the tract is situated, or by any agency thereof. The rights-of-way may, in the discretion of the authorized officer of the Bureau of Land Management, be definitely located prior to the issuance of the patent. If not so located, they may be subject to location after patent is issued.

11. All structures of a permanent nature constructed on lots 1, 3, 4, 5, 7 and 8 shall be set back from the exterior boundaries of the tract not less than 33 feet, and if there is a road or street in existence, or an identified and definitely established right-of-way for such road or street, then and in that event all permanent structures shall be set back not less than 33 feet from the outside line of said established road, street or definitely identified right-of-way.

12. All inquiries regarding these lands shall be addressed to the Manager, Land and Survey Office, Phoenix, Arizona.

E. R. SMITH,
Regional Administrator

[F. R. Doc. 53-5393; Filed, June 17, 1953; 8:51 a. m.]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[Administrative Order 4196]

TEXAS

LOAN ANNOUNCEMENT

MAY 22, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
Texas 38 N Hill	$129,000

[SEAL] ANCHER NELSEN,
Administrator

[F. R. Doc. 53-5424; Filed, June 17, 1953; 8:56 a. m.]

[Administrative Order T-291]

ALLOCATION OF FUNDS FOR LOANS

APRIL 27, 1953.

I hereby amend:

(a) Administrative Order No. T-89, dated November 28, 1951, by rescinding the loan of $270,000 therein made for "Belmont-Monroe Telephone Cooperative, Inc.—Ohio 508-A"

[SEAL] WM. C. WISE,
Acting Administrator

[F. R. Doc. 53-5413; Filed, June 17, 1953; 8:55 a. m.]

[Administrative Order T-292]

TENNESSEE

LOAN ANNOUNCEMENT

APRIL 27, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
Cities Telephone Co., Tennessee 503-B	$197,000

[SEAL] WM. C. WISE,
Acting Administrator

[F. R. Doc. 53-5414; Filed, June 17, 1953; 8:55 a. m.]

[Administrative Order T-293]

KENTUCKY

LOAN ANNOUNCEMENT

APRIL 27, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
Brandenburg Telephone Co., Kentucky 524-B	$258,000

[SEAL] WM. C. WISE,
Acting Administrator

[F. R. Doc. 53-5415; Filed, June 17, 1953; 8:55 a. m.]

[Administrative Order T-294]

UTAH

LOAN ANNOUNCEMENT

MAY 12, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
South Central Utah Telephone Association, Inc., Utah 505-A	$340,000

[SEAL] ANCHER NELSEN,
Administrator

[F. R. Doc. 53-5416; Filed, June 17, 1953; 8:55 a. m.]

[Administrative Order T-295]

OREGON

LOAN ANNOUNCEMENT

MAY 12, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
Clear Creek Mutual Telephone Co., Oregon 509-A	$134,000

[SEAL] ANCHER NELSEN,
Administrator

[F. R. Doc. 53-5417; Filed, June 17, 1953; 8:55 a. m.]

[Administrative Order T-296]

MINNESOTA

LOAN ANNOUNCEMENT

MAY 12, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
Hector Telephone Co., Minnesota 539-B	$175,000

[SEAL] ANCHER NELSEN,
Administrator

[F. R. Doc. 53-5418; Filed, June 17, 1953; 8:55 a. m.]

[Administrative Order T-297]

TENNESSEE

LOAN ANNOUNCEMENT

MAY 13, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
Rutherford Home Telephone Co., Tennessee 538-A	$175,000

[SEAL] ANCHER NELSEN, *Administrator.*

[F. R. Doc. 53-5419; Filed, June 17, 1953; 8:55 a. m.]

[Administrative Order T-298]

NORTH CAROLINA

LOAN ANNOUNCEMENT

MAY 15, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
The Old Town Telephone System, Inc., North Carolina 502-B	$421,000

[SEAL] ANCHER NELSEN, *Administrator.*

[F. R. Doc. 53-5420; Filed, June 17, 1953; 8:55 a. m.]

[Administrative Order T-299]

MICHIGAN

LOAN ANNOUNCEMENT

MAY 15, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
Lawrence Telephone Co., Michigan 503-B	$112,000

[SEAL] ANCHER NELSEN, *Administrator.*

[F. R. Doc. 53-5421; Filed, June 17, 1953; 8:56 a. m.]

[Administrative Order T-300]

MISSISSIPPI

LOAN ANNOUNCEMENT

MAY 15, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
Calhoun City Telephone Co., Inc., Mississippi 504-B	$81,000

[SEAL] ANCHER NELSEN, *Administrator.*

[F. R. Doc. 53-5422; Filed, June 17, 1953; 8:56 a. m.]

[Administrative Order T-301]

WASHINGTON

LOAN ANNOUNCEMENT

MAY 15, 1953.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
LaCenter Telephone Co., Washington 503-A	$140,000

[SEAL] ANCHER NELSEN, *Administrator.*

[F. R. Doc. 53-5423; Filed, June 17, 1953; 8:56 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1068, as amended; 29 U. S. C. and Sup. 214) and Part 522 of the regulations issued thereunder (29 CFR Part 522), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 522. The effective and expiration dates, occupations, wage rates, number or proportion of learners, and learning period for certificates issued under the general learner regulations (§§ 522.1 to 522.14) are as indicated below; conditions provided in certificates issued under special industry regulations are as established in these regulations.

Single Pants, Shirts and Allied Garments, Women's Apparel, Sportswear and Other Odd Outerwear, Rainwear, Robes and Leather and Sheep-Lined Garments Divisions of the Apparel Industry Learner Regulations (29 CFR 522.160 to 522.166, as amended December 31, 1951; 16 F. R. 12043, and June 2, 1952; 17 F. R. 3818).

A. C. M. Corp., Winder, Ga., effective 6-3-53 to 6-2-54; 10 percent of the factory production workers for normal labor turnover purposes (Army wool trousers, men's dress pants).

A. C. M. Corp., Winder, Ga., effective 6-3-53 to 12-2-53; 100 learners for expansion purposes (Army wool trousers, men's dress pants).

Angelica Uniform Co., Winfield, Mo., effective 6-5-53 to 6-4-54; 10 percent of the factory production workers for normal labor turnover (washable service apparel).

Angelica Uniform Co., Summersville, Mo., effective 6-12-53 to 6-11-54; 10 percent of the factory production workers for normal labor turnover (washable service apparel).

Bass Manufacturing, Inc., 101 West End Road, Wilkes-Barre, Pa., effective 6-8-53 to 6-7-54; 8 learners for normal labor turnover (children's pajamas, inexpensive dresses).

Blue Bell, Inc., Prentiss County, Baldwyn, Miss., effective 6-20-53 to 6-19-54; 10 percent of the factory production workers for normal labor turnover (work shirts and sport shirts).

Jack Borgenicht, Inc., Mill and Frieda Streets, Dickson City, Pa., effective 6-8-53 to 6-7-54; 10 percent of the factory production workers for normal labor turnover (ladies' and children's cotton dresses).

Dowling Textile Manufacturing Co., P. O. Box 389, McDonough, Ga., effective 6-5-53 to 6-4-54; 10 learners in the production of washable service garments (hospital garments).

M. Fine & Sons Manufacturing Co., Inc., "Defiance" Factory, Bedford, Ind., effective 6-3-53 to 6-2-54; 10 percent of the factory production workers for normal labor turnover purposes (men's work pants).

Jaco Pants, Inc., Ashburn, Ga., effective 6-22-53 to 12-21-53; 50 learners for expansion purposes (men's dress pants).

Bernard Land & Sons, Inc., 113 West Redwood Street, Baltimore, Md., effective 6-9-53 to 6-8-54; 10 percent of the factory production force for normal labor turnover purposes (ladies' and misses' cotton dresses).

Martin Manufacturing Co., Inc., Robersonville, N. C., effective 6-4-53 to 6-3-54; 10 percent of the factory production workers for normal labor turnover purposes (ladies' and children's cotton dresses).

Martin Manufacturing Co., Inc., Robersonville, N. C., effective 6-4-53 to 12-3-53; 50 learners for expansion purposes (ladies' and children's cotton dresses).

Mit's Garment Co., 1920 Sheridan Road, Zion, Ill., effective 6-3-53 to 6-2-54; 5 learners for normal labor turnover (cotton dresses).

National Pants Co., Macon, Miss., effective 6-1-53 to 11-30-53; 75 learners for expansion purposes (men's and boys' pants).

Selinsgrove Manufacturing Co., Inc., 106 South High Street, Selinsgrove, Pa., effective 6-3-53 to 6-2-54; 10 learners for normal labor turnover (woven, rayon and nylon pajamas).

Smith Bros. Manufacturing Co., Bonham, Texas, effective 6-1-53 to 11-30-53; 50 learners for expansion purposes (men's and boys' blue jeans).

Sun Garment Co., Twelfth and Penn Streets, St. Joseph, Mo., effective 6-5-53 to 12-4-53; 30 learners for expansion purposes (shirts and pants).

Tropical Garment Manufacturing Co., Inc., 3108 Jefferson Street, Tampa, Fla., effective 6-5-53 to 6-4-54; 10 percent of the factory production workers for normal labor turnover purposes (work pants, shirts and dungarees).

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.51, as revised November 19, 1951; 16 F. R. 10733).

DeKalb Hosiery Mills, Inc., Fort Payne, Ala., effective 6-4-53 to 6-3-54; 5 percent of the total number of factory production workers (not including office and sales personnel).

Montgomery Knitting Mill, Summerville, Ga., effective 6-4-53 to 6-3-54; 5 percent of the total number of factory production workers (not including office and sales personnel).

Newland Hosiery Co., Inc., Newland, N. C., effective 6-6-53 to 2-5-54; 25 learners for expansion purposes.

Newland Hosiery Co., Inc., Newland, N. C., effective 6-6-53 to 6-5-54; 5 learners.

Knitted Wear Industry Learner Regulations (29 CFR 522.68 to 522.79, as amended January 21, 1952; 16 F. R. 12866)

Dothan Manufacturing Co., East Newton Street, Dothan, Ala., effective 6-3-53 to 6-2-54; 5 percent of the total factory production force (men's shorts and pajamas).

Each certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be cancelled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Regulations, Part 522.

Signed at Washington, D. C., this 8th day of June 1953.

MILTON BROOKE,
Authorized Representative of the Administrator

[F. R. Doc. 53-5365; Filed, June 17, 1953; 8:45 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 10536]

JOHN POOLE BROADCASTING CO. (KBIG)

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of John H. Poole, tr/as John Poole Broadcasting Company (KBIG) Avalon, California, Docket No. 10536, File No. BL-4897 for license to cover construction permit.

1. The Commission has before it:

(a) The instant application filed May 16, 1952, for a station license to cover a construction permit;

(b) Request by KMPC, Inc., licensee of Radio Station KMPC, Los Angeles, California, to designate said application for hearing, filed on October 24, 1952;

(c) Response to KMPC request filed by KBIG on November 20, 1952;

(d) Petition by Columbia Broadcasting System of California, licensee of Radio Station KCBS, San Francisco, California, filed December 12, 1952, to designate the KBIG application for hearing;

(e) Partial response to KCBS petition, filed by KBIG on December 22, 1952;

(f) Supplementary petition of KCBS filed January 29, 1953;

(g) Petition by KMPC, filed on January 30, 1953, to designate the license application of KBIG for hearing and for interim relief;

(h) Supplementary engineering statement filed by KBIG on February 20, 1953, regarding the KMPC and KCBS petitions;

(i) Opposition to the KMPC and KCBS petitions filed by KBIG on February 25, 1953;

(j) Request for Order to Show Cause and Memorandum in support or petition for hearing filed by KCBS on March 27, 1953;

(k) Partial response filed by KBIG on April 7, 1953, to Request for Order to Show Cause;

(l) Response of Columbia Broadcasting System, Inc., of California, filed April 16, 1953, to partial response of KBIG,

(m) Supplemental Response to Request for Order to Show Cause filed by KBIG on May 11, 1953;

(n) Request for Expedited Consideration and Response to Supplemental Response of KBIG, filed by KCBS May 18, 1953.

2. A brief discussion of the history of this matter is necessary to an understanding of the problems involved. Station KMPC is licensed to operate at Los Angeles, California, on the frequency 710 kilocycles with a power of 10 kilowatts at night, 50 kilowatts daytime, unlimited time, using a directional antenna at night. Station KCBS is licensed to operate at San Francisco, California, on the frequency 740 kilocycles with 50 kilowatts power, unlimited time, using different directional antennas day and night. On March 13, 1950, John Poole, trading as El Dia Broadcasting Company, filed an application (BP-7569) for a construction permit for a new station at Long Beach, California, to operate on 740 kilocycles, with a power of 10 kilowatts, daytime only, using a directional antenna. The application was subsequently amended to specify Avalon, Santa Catalina, California, instead of Long Beach, California.[1] The application was granted on April 12, 1951, as the result of a consolidated hearing involving two other applications for Newport Beach, California, and Temple City, California. On October 2, 1951, the permit was amended to change the trade name of the permittee to John Poole Broadcasting Company (BMP-5682) On November 20, 1951, the construction permit was again modified, this time to extend the completion date to June 10, 1952 (BMP-5734) Public notice of the filing of all the foregoing applications and amendments was given, as well as public notice of Commission actions thereon. No protests, formal or informal, against any of the applications were received nor were any petitions filed seeking reconsideration of any of the Commission's actions.

3. The proposed station was constructed and on May 16, 1952, the above-entitled application for license was filed, together with a request for authority to commence program tests. Preliminary examination of this application indicated that the station had been constructed in full compliance with the requirements of the construction permit and the Commission rules and standards; and accordingly, pursuant to § 3.168 of the Commission rules, telegraphic authority for the commencement of program tests was issued May 26, 1952.

4. On October 24, 1952, KMPC wrote to the Commission alleging that it had caused an engineering study to be made of the possible overlap of the respective 25 mv/m contours in violation of the Commission rules and standards[3] and that said contours do overlap. The petition requested that the pending application for license to cover the outstanding construction permit be designated for hearing pursuant to the provisions of § 1.385 (c) of the rules and that KMPC be made a party thereto; or in the alternative that the Commission require John Poole Broadcasting Company to make adjustments in its directional antenna system so as to eleminate the overlap between the respective 25 mv/m contours. This request was embodied in a formal petition filed by KMPC on January 30, 1953. In this petition, KMPC suggested as an additional solution that the program test authority under which Radio Station KBIG is now operating be revoked, or that the power be reduced so as to eliminate the overlap.

5. On December 12, 1952, KCBS for the first time, indicated its objection to the operation of Station KBIG by filing a petition alleging that a field intensity survey it had caused to be taken established severe interference from KBIG to KCBS within its normally protected contour, thus effecting a modification of the license of KCBS, and requesting that the KBIG license application be designated for hearing. On January 29, 1953, KCBS filed a supplementary petition and additional measurements which it alleged demonstrated that the pattern from KBIG's operation is not as predicted in its application for construction permit. The KCBS petition further alleged that the proof of performance submitted by KBIG is not sufficiently complete and adequate to permit the proper determination of KBIG's antenna pattern and that therefore the program test authorization is improper. In view of this, and the unliklihood that a hearing would be held for a considerable period of time, KCBS believes that the serious interference within its normally protected contour entitles it to immediate relief and therefore requests either the revocation of program authority or a reduction of power such as will afford adequate protection to KCBS. On March 27, 1953, KCBS filed a petition requesting that, in addition to the other relief requested, the Commission issue to KBIG an order to show cause why its construction permit should not be modified so as to give adequate protection to KCBS and KMPC.

6. The KBIG position is, in effect, that KBIG has been constructed in full accord with the provisions of its construc-

[1] Avalon is located on Santa Catalina Island, approximately 26 miles off the coast of Southern California, south of Los Angeles.

[2] Docket No. 9115, etc. The other two applicants were, respectively, Newport Harbor Broadcasting Company and Angelus Broadcasting Company. Neither KMPC nor KCBS were parties to the hearing.

[3] The Commission Standards of Good Engineering Practice state that: "No station will be licensed for operation with less than 40 kilocycles separation from another station, if the area enclosed by the 25 mV/m contours of the two stations overlap."

tion permit; that the measurements made by KCBS and KMPC cannot be relied upon; that even if the reliability of the measurements made by KCBS and KMPC are accepted arguendo, they do not support the relief prayed, and that KCBS and KMPC are barred by laches and estoppel and should not be heard to complain.

7. We have examined the measurements submitted by all the parties and we are of the opinion that a prima facie showing has been made that the 25 mv/m contours of KBIG and KMPC will overlap contrary to the Commission rules and standards governing the allocation of standard broadcast stations. Similarly, we are of the view that a prima facie showing has been made with respect to the alleged interference to KCBS, within its normally protected contour. The 25 mv/m overlap with KMPC standing alone is sufficient to raise a substantial question as to whether issuance of a license to KBIG would serve the public interest, convenience and necessity.[4] We, therefore, believe that in accordance with section 319 (c) of the Communications Act of 1934, as amended, the above-entitled application for license should be designated for hearing. We also believe that KMPC and KCBS have sufficient interest in this matter to warrant their participation in that hearing.

8. It does not necessarily follow that the program test authority issued Station KBIG must be summarily cancelled. A hearing was held, a construction permit issued and a station built all in the normal course in full accordance with the Commission rules and without any objection from either KCBS or KMPC. Moreover, neither KCBS nor KMPC has alleged such facts as would indicate that they are suffering irreparable injury; KMPC does not allege objectionable interference as a result of the 25 mv/m overlap;[5] KCBS alleges objectionable interference but does not allege economic injury resulting therefrom such as would warrant immediate relief. Section 3.168 (b) of the Commission rules reserves to the Commission the discretion to suspend or revoke program test authority. In view of the above circumstances and of the extended period during which KBIG had operated without any complaint of injury by KMPC and KCBS, we feel that program test authority should not be summarily revoked. We believe the more orderly and equitable procedure here to be designation of the pending license application of KBIG for a prompt hearing.

9. KCBS has also requested that we direct KBIG to show cause why its construction permit should not be modified so as to give adequate protection to KCBS and KMPC. We believe that the institution of a show cause proceeding which would elicit the same information as will be adduced at the hearing on the application for license herein ordered would serve no useful purpose. To grant this KCBS request we would be required to make an initial assumption not only of the existence of objectionable interference to KCBS, but also that the public interest requires the elimination of such interference. We do not have sufficient information upon which to base such an assumption.

Accordingly, *It is ordered*, This 10th day of June 1953, that the above-entitled application of John H. Poole, tr/as John Poole Broadcasting Company is designated for hearing commencing at 9:00 a. m., July 20, 1953, at Washington, D. C., upon the following issues:

1. To determine whether the installation and operation of the proposed station would be in compliance with the Commission rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations with particular reference to the possibility of overlap of 25 mv/m contours between the proposed station and Station KMPC, Los Angeles, California.

2. (a) To determine whether the operation of KBIG as proposed would involve objectionable interference with Station KCBS, Los Angeles, California, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary service to such areas and populations.

(b) To determine the areas and populations which may be expected to gain or lose primary service from the operation of KBIG as proposed and the availability of other primary service to such areas and populations.

3. To determine on the basis of the above issues whether a grant of application BL-4379 is in the public interest.

It is further ordered, That KMPC, Inc. and the Columbia Broadcasting System of California are made parties to the above hearing.

It is further ordered, That the said petitions are in all other respects denied.

Released: June 12, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-5395; Filed, June 17, 1953; 8:51 a. m.]

[Docket Nos. 10541, 10542, 10543]

WMBD, INC. ET AL.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of WMBD, Inc., Peoria, Illinois, Docket No. 10541, File No. BPCT-603; WIRL Television Co., Peoria, Illinois, Docket No. 10542, File No. BPCT-702; Brookwell Enterprises, a partnership comprised of C. Wayland Brooks and Mary T. Brooks, Peoria, Illinois, Docket No. 10543, File No. BPCT-1030; for construction permits for new television stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 10th day of June 1953;

The Commission having under consideration the above-entitled applications, each requesting a construction permit for a new television broadcast station to operate on Channel 8 in Peoria, Illinois; and

It appearing, That the above-entitled applications are mutually exclusive in that operation by more than one applicant would result in mutually destructive interference; and

It further appearing, That pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-named applicants were advised by letters dated August 20, 1952, and May 15, 1953, that their applications were mutually exclusive and that a hearing would be necessary; that WMBD, Inc. was advised by letter dated May 15, 1953, that certain questions were raised as a result of deficiencies of a legal and technical nature in its application, and that the question of whether its proposed antenna system and site would constitute a hazard to air navigation was unresolved; that WIRL Television Co. was advised by the letter dated May 15, 1953, that certain questions were raised as a result of deficiencies of a financial and technical nature in its application, and that the question of whether its proposed antenna system and site would constitute a hazard to air navigation was unresolved; and that Brookwell Enterprises was advised by the letter dated May 15, 1953, that certain questions were raised as a result of deficiencies of a financial nature in its application, and that the question of whether its proposed antenna system and site would constitute a hazard to air navigation was unresolved; and

It further appearing, That upon due consideration of the above-entitled applications, the amendments filed thereto, and the replies to the above letters, the Commission finds that under section 309 (b) of the Communications Act of 1934, as amended, a hearing is mandatory; and that each of the above-named applicants is legally and financially qualified to construct, own and operate a television broadcast station, and is technically qualified to construct, own and operate a television broadcast station except as to the matters raised in the issues below;

It is ordered, That, pursuant to section 309 (b) of the Communications Act of 1934, as amended, the above-entitled applications are designated for hearing in a consolidated proceeding to commence at 9:00 a. m. on July 10, 1953, in Washington, D. C., upon the following issues:

1. To determine whether the installation and operation of the stations proposed by WMBD, Inc., and Brookwell

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[4] In re Application of Conant Broadcasting Company, Inc., (WHIL), 7 RR 1074.

[5] Interference such as that usually encountered between co-channel and immediately adjacent channel stations is not to be expected between stations separated by 30 kc regardless of the relative intensity of the desired and undesired signals. The standards recognize, however, that, by reason of inter-modulation and other effects, interference problems may arise when two or more stations with the same general service area are operated on channels 30 kc apart and that the extent of this interference is undeterminable on the basis of any existing Commission standards. For this reason, the Commission as a matter of allocation policy has established minimum separations for adjacent channel stations which it has adhered to in all cases. In this instant case, notwithstanding the fact that this allocation policy may have been departed from, there has been no showing whatever that a significant amount of interference such as that last mentioned has in fact resulted.

Enterprises in their above-entitled applications would constitute hazards to air navigation.

2. To determine what effect, if any the installation and operation of the television antenna as proposed in the above-entitled application of WIRL Television Co. would have on the operation of standard broadcast Station WMBD whether corrective measures for such effects are possible and feasible; and what proof should be submitted to show that such corrective measures have been taken after installation and operation of the said proposed antenna.

3. To determine on a comparative basis which of the operations proposed in the above-entitled applications would best serve the public interest, convenience and necessity in the light of the record made with respect to the significant differenees among the applications as to:

(a) The background and experience of each of the above-named applicants having a bearing on its ability to own and operate the proposed television station.

(b) The proposals of each of the above-named applicants with respect to the management and operation of the proposed station.

(c) The programming service proposed in each of the above-entitled applications.

Released: June 12, 1953.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 53-5396; Filed, June 17, 1953; 8:51 a. m.]

FEDERAL POWER COMMISSION

LAWRENCEBURG GAS CO.

NOTICE OF ORDER EXTENDING TIME FOR FILING

JUNE 15, 1953.

Notice is hereby given that on June 12, 1953, the Federal Power Commission issued its order adopted June 11, 1953, extending time to December 31, 1953, for filing reclassification and original cost studies in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secreary.

[F. R. Doc. 53-5388; Filed, June 17, 1953; 8:49 a. m.]

[Docket No. E-6355]

IDAHO POWER CO.

NOTICE OF ORDER FURTHER EXTENDING TIME FOR CONSUMMATING TRANSACTION

JUNE 15, 1953.

Notice is hereby given that on June 12, 1953, the Federal Power Commission issued its order adopted June 11, 1953, in the above-entitled matter, authorizing further extension of time to and including December 31, 1953, for consummating the transaction authorized by the Commission's order of June 1, 1951 (16 F. R. 5505) and modifying paragraph (C) of said order.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-5387; Filed, June 17, 1953; 8:49 a. m.]

[Docket No. G-1935]

MORGANFIELD NATURAL GAS CO.

ORDER POSTPONING HEARING

The Commission by order issued on May 8, 1953, provided for a hearing to commence on June 15, 1953, concerning the matters involved and the issues presented by the application filed herein April 10, 1952, as subsequently amended and supplemented, by Morganfield Natural Gas Company (Applicant) for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act authorizing the construction and operation of certain natural-gas pipe-line facilities.

On June 8, 1953, Applicant filed a motion requesting that such hearing be postponed from June 15 to July 13, 1953, and stating, among other things, that intervener Texas Gas Transmission Corporation (Texas Gas) did not oppose such postponement.

On June 8, 1953, Commission Staff Counsel informally advised Applicant and Texas Gas that, if the hearing could not be held as scheduled, commencing June 15, 1953, then, due to other assignments and hearings already scheduled, it was the position of the Staff that the hearing should be postponed to September 15, 1953. On June 9, 1953, Applicant by telegram advised that it had no objection to a postponement to September 15, 1953, and Texas Gas by telegram advised that it likewise had no objection to such a postponement: *Provided, however* That Applicant be required definitely to go forward on September 15, 1953, with the presentation of its case: *And provided further* That Applicant be required to serve on the parties, at least thirty days prior to September 15, 1953, all exhibits which it proposes to introduce in the proceeding.

Upon consideration of the aforementioned motion and the entire record in this matter, the Commission finds: it is appropriate and in the public interest in carrying out the provisions of the Natural Gas Act, and good cause exists, to postpone until September 15, 1953, as hereinafter provided and ordered, the hearing heretofore scheduled to commence herein on June 15, 1953.

The Commission orders:

(A) The hearing heretofore scheduled to commence herein on June 15, 1953, be and the same is hereby postponed to commence on September 15, 1953, at 10 a. m., e. d. s. t., in the Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C.

(B) In the interest of expedition, the Applicant shall, not later than 30 days next preceding September 30, 1953, serve upon all parties herein, including Commission Staff Counsel, copies of all exhibits which Applicant proposes to offer at the hearing.

Adopted: June 11, 1953.
Issued: June 12, 1953.

By the Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 53-5366; Filed, June 17, 1953; 8:46 a. m.]

[Docket No. G-2158]

UNITED GAS PIPE LINE CO.

ORDER FIXING DATE OF HEARING

On April 20, 1953, United Gas Pipe Line Company (Applicant), a Delaware corporation having its principal place of business at 1525 Fairfield Avenue, Shreveport, Louisiana, filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of a sales meter and regulator station on its Great Lakes Carbon Company 4-inch pipeline at a point in Jefferson County, Texas, near Port Arthur, Texas, for the purpose of direct natural gas service to Warren Petroleum Company for use in Tank Blanketing, all as more fully described in said application on file with the Commission and open to public inspection.

Applicant has requested that its application be heard under the shortened procedure provided by § 1.32 (b) (18 CFR 1.32 (b)) of the Commission's rules of practice and procedure, and no request to be heard, protest, or petition has been filed subsequent to the giving of due notice of the filing of the application, including publication in the FEDERAL REGISTER on May 16, 1953 (18 F R. 2869)

The Commission finds: This proceeding is a proper one for disposition under the provisions of § 1.32 (b) of the Commission's rules of practice and procedure.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing be held on June 26, 1953, at 9:45 a. m., e. d. s. t., in the Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however* That the Commission may, after a noncontested hearing, forthwith dispose of the proceeding pursuant to the provisions of § 1.32 (b) of the Commission's rules of practice and procedure.

(B) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the said rules of practice and procedure.

Adopted June 12, 1953.

Issued: June 12, 1953.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 53-5385; Filed, June 17, 1953; 8:49 a. m.]

[Docket No. G-2163]

LONE STAR GAS CO.

ORDER FIXING DATE OF HEARING

On May 7, 1953, Lone Star Gas Company (Lone Star) filed an application pursuant to section 7 of the Natural Gas Act for permission and approval to abandon and remove a portion of the pipeline and a meter and regulator station, acquired from Martin Wunderlich and Lee Aikin pursuant to a certificate of public convenience and necessity issued March 27, 1952, in Docket No. G-1889, and for a certificate of public convenience and necessity authorizing construction and operation of a section of pipeline to enable continuance of natural-gas service to the area which otherwise would be affected by the requested abandonment. The application is on file with the Commission and open to public inspection.

Applicant has requested that its application be heard under the shortened procedure provided by § 1.32 (b) (18 CFR 1.32 (b)) of the Commission's rules and practice and procedure, no request to be heard, protest, or petition having been filed subsequent to the giving of due notice of the filing of the application, including publication in the FEDERAL REGISTER on May 22, 1953 (18 F. R. 2966)

The Commission finds: This proceeding is a proper one for disposition under the provisions of § 1.32 (b) of the Commission's rules of practice and procedure.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing be held on June 30, 1953 at 9:45 a. m., e. d. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however* That the Commission may, after a non-contested hearing, forthwith dispose of the proceeding pursuant to the provisions of § 1.32 (b) of the Commission's rules of practice and procedure.

(B) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the said rules of practice and procedure.

Adopted: June 12, 1953.

Issued: June 12, 1953.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 53-5386; Filed, June 17, 1953; 8:49 a. m.]

DEPARTMENT OF COMMERCE

Civil Aeronautics Administration

[Amdt. 18]

AVIATION SAFETY DISTRICT OFFICE; AMARILLO, TEX.

CHANGE OF ADDRESS

In accordance with the public information requirements of the Administrative Procedure Act, the description of Organization and Functions of the Civil Aeronautics Administration is hereby amended. The purpose of this amendment is to publish a change in address of the Aviation Safety District Office at Amarillo, Texas.

Section 43 (h) (4) (ii) published on May 14, 1953, in 18 F. R. 2804 is amended to read:

SEC. 43. *Regions 1-6.* * * *

(h) *Aviation Safety Division.* * * *

(4) *Aviation Safety District Offices.* * * *

(ii) *Locations.* * * *

Region 2

* * * * *

Texas..	G	Amarillo.....	Tradewind Airport.
	G	Brownsville.	Rio Grande International Airport, Airport Branch Post Office.
	G F	Dallas.....	211 Terminal Bldg., Love Field.
	O	...do.....	244 Terminal Bldg., Love Field.
	G	El Paso.....	El Paso International Airport.
	G	Fort Worth.	P. O. Box 1059, Meacham Field.
	O	.....do.....	Room 213, Terminal Bldg., Amon Carter Field.
	F	Fort Worth (Hurst).	Care of Bell Aircraft Corp., P. O. Box [illegible].
	G	Houston.....	Second Floor, National Guard Hangar, Municipal Airport.
	O	.....do.....	Room 204 Administration Bldg., Municipal Airport.
	G	San Antonio.	Municipal Airport.
	G	Terminal (Midland).	Midland Air Terminal, P. O. Box [illegible].

* * * * *

This amendment shall become effective on June 30, 1953.

[SEAL] F. B. LEE, *Administrator of Civil Aeronautics.*

[F. R. Doc. 53-5362; Filed, June 17, 1953; 8:45 a. m.]

Federal Maritime Board

AMERICAN PRESIDENT LINES AND BULL INSULAR LINES, INC.

NOTICE OF AGREEMENT FILED WITH BOARD FOR APPROVAL

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916, as amended; 39 Stat. 733, 46 U. S. C. Section 814.

Agreement No. 7912 between American President Lines and Bull Insular Line, Inc., covers the transportation of cargo under through bills of lading from France, Italy and North Africa to Puerto Rico, with transshipment at New York.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to this agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: June 15, 1953.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS, *Secretary.*

[F. R. Doc. 53-5403; Filed, June 17, 1953; 8:54 a. m.]

INTERSTATE COMMERCE COMMISSION

EMPIRE STATE HIGHWAY TRANSPORTATION ASSN.

NOTICE OF INVITATION TO SUBMIT REPRESENTATIONS

JUNE 12, 1953.

Invitation to submit representations respecting petition filed by Empire State Highway Transportation Association, Inc., for issuance of a certain rule respecting practices of water carriers in the New York Harbor area.

Empire State Highway Transportation Association, Inc., 44 East 23rd St., New York 10, N. Y., has filed a petition with the Interstate Commerce Commission, dated May 26, 1953, requesting issuance of a rule governing the practices of water carriers, subject to part III of the Interstate Commerce Act, relating to the loading of freight at piers within the States of New York and New Jersey, which proposed rule reads as follows:

Each water carrier subject to the provisions of Part III of the Interstate Commerce Act shall assume full and complete responsibility for the operation of piers which they occupy, employ, hire or engage; shall make freight readily available to the public (consignors, consignees, agents and others) directly and without the intervention of third parties or the requirement that services of third parties be engaged; shall provide loading or unloading services and adequate and sufficient facilities therefor when such services are requested and shall charge therefor only such lawful rates as are on file with the Interstate Commerce Commission.

Prior to considering the petition the Commission desires the submission of representations from interested persons on the matters presented by the petition. The original and 14 copies of such representations should be filed with the Commission on or before July 31, 1953.

[SEAL] GEORGE W LAIRD, *Acting Secretary.*

[F. R. Doc. 53-5359; Filed, June 17, 1953; 8:50 a. m.]

[4th Sec. Application 23176]

STEEL OR WROUGHT IRON PIPE FROM LONE STAR, TEXAS, TO KANSAS AND NEBRASKA

APPLICATION FOR RELIEF

JUNE 12, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-

haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by F C. Kratzmeir, Agent, for carriers parties to schedule listed below.

Commodities involved: Pipe, steel or wrought iron, welded or seamless, and couplings, carloads.

From: Lone Star, Texas.

To: Points in Kansas and Nebraska.

Grounds for relief: Competition with rail carriers, circuitous routes, competition with motor carriers.

Schedules filed containing proposed rates: F C. Kratzmeir, Agent, ICC No. 3967, supl. 236.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W. LAIRD,
Acting Secretary.

[F. R. Doc. 53-5346; Filed, June 16, 1953; 8:52 a. m.]

[4th Sec. Application 28177]

COFFEE FROM NORTH ATLANTIC PORTS TO PORT HURON, MICH.

APPLICATION FOR RELIEF

JUNE 12, 1953.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by C. W Boin, and I. N. Doe, Agents, for carriers parties to schedules listed below.

Commodities involved: Coffee, green or roasted.

From: North Atlantic ports and points grouped therewith.

To: Port Huron, Mich.

Grounds for relief: Competition with rail carriers, circuitous routes, to maintain grouping, additional destinations.

Schedules filed containing proposed rates; C. W Boin, Agent, ICC No. A-986, I. N. Doe, Agent, ICC No. 597, supl. 6.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL] GEORGE W LAIRD,
Acting Secretary.

[F. R. Doc. 53-5347; Filed, June 16, 1953; 8:52 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3237]

ADOLF GOBEL, INC.

ORDER SUMMARILY SUSPENDING TRADING

In the matter of trading on the American Stock Exchange in the $1.00 par value Common Stock of Adolf Gobel, Inc., File No. 1-3237.

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 12th day of June A. D. 1953.

The Commission by order adopted on March 13, 1953, pursuant to section 19 (a) (4) of the Securities Exchange Act of 1934, having summarily suspended trading in the $1 par value common stock of Adolf Gobel, Inc. on the American Stock Exchange for a period of ten days from that date, and subsequently having entered additional orders further suspending such trading in order to prevent fraudulent, deceptive, or manipulative acts or practices; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on that Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion that such suspension is necessary in order to prevent fraudulent, deceptive, or manipulative acts or practices, with the result that it will be unlawful under section 15 (c) (2) of the Securities Exchange Act of 1934 and the Commission's Rule X-15C2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, such security otherwise than on a national securities exchange.

It is ordered, Pursuant to section 19 (a) (4) of the Securities Exchange Act of 1934, that trading in said securities on the American Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive, or manipulative acts or practices, effective at the opening of the trading session on said Exchange on June 15, 1953, for a period of ten days.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 53-5373; Filed, June 17, 1953; 8:47 a. m.]

[File Nos. 54-196, 59-97, 70-2681]

MISSION OIL CO. ET AL.

NOTICE OF FILING APPLICATIONS FOR FURTHER EXTENSION OF TIME FOR DISPOSITION BY SINCLAIR OIL CORPORATION OF CERTAIN COMMON STOCKS OF SUBSIDIARIES

JUNE 12, 1953.

In the matter of The Mission Oil Company, Southwestern Development Company, and subsidiaries and Sinclair Oil Corporation, File Nos. 54-196, 59-97; Albert R. Jones, et al., File No. 70-2681.

Notice is hereby given that Sinclair Oil Corporation ("Sinclair"), a registered holding company which is exempt from the provisions of the Public Utility Holding Company Act of 1935 ("act"), other than sections 9 (a) (2) and 11 (b), (c) and (e) thereof, has filed with this Commission, pursuant to said act, applications, and amendments thereto, requesting the Commission to extend for a further period of six months from June 21, 1953, the time within which to effect dispositions of its holdings of common stocks of Southwestern Development Company ("Southwestern") and Westpan Hydrocarbon Company ("Westpan") which were provided for in a plan approved by the Commission, pursuant to section 11 (e) of the act, by order dated December 21, 1951.

Notice is further given that any interested person may, not later than June 26, 1953, at 5:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on said applications, stating the reasons for such request, the nature of his interest and the issues of fact or law raised by said applications which he desires to controvert, or may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after June 26, 1953, said applications, as filed or as further amended, may be granted, or the Commission may take such other action as it deems necessary or appropriate.

All interested persons are referred to said applications which are on file in the offices of this Commission for a statement of the request for a further extension of time and the reasons given for such request.

The plan provided, among other things, for the disposition by Sinclair, within one year from December 21, 1951, "or such longer time as the Commission may by further order grant," of the reclassified common stock of Southwestern, a registered holding company, and the common stocks of Colorado Interstate Gas Company ("Colorado") and Westpan, both non-utility subsidiaries of Southwestern, received by Sinclair under the provisions of the plan. Sinclair disposed of the common stock of Colorado, and the Commission, by order dated December 24, 1952, extended the time within which Sinclair should effect the disposition of the common stocks of Southwestern and Westpan for a period of six months from December 21, 1952.

In support of the applications for a further extension of time, Sinclair states

that it has been unable in the exercise of due diligence to dispose of the common stocks of Southwestern and Westpan.

Sinclair states that it will exercise every effort to comply, consistent with the public interest and the protection of investors, with an extension order and requests that such order become effective upon its issuance.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-5375; Filed, June 17, 1953; 8:48 a. m.]

[File No. 70-3028]

COLUMBIA GAS SYSTEM, INC. AND CUMBERLAND AND ALLEGHENY GAS CO.

ORDER AUTHORIZING ISSUANCE AND SALE OF COMMON STOCK BY SUBSIDIARY AND ACQUISITION THEREOF BY PARENT COMPANY

JUNE 12, 1953.

The Columbia Gas System, Inc. ("Columbia") a registered holding company, and Cumberland and Allegheny Gas Company ("Cumberland") a wholly-owned subsidiary of Columbia, having filed a joint application-declaration, and amendments thereto, with this Commission pursuant to sections 6 (a) (2) 6 (b) 9 and 10 of the Public Utility Holding Company Act of 1935 ("act") with respect to the following proposed transactions:

Cumberland proposes (a) to amend its certificate of incorporation to increase its authorized capital from 300,000 to 350,000 shares of common stock, $25 par value; and (b) to issue and sell to Columbia 14,000 shares of common stock of Cumberland, par value $25 per share ($350,000) It is represented that the proceeds to be derived from Columbia would be used by Cumberland to finance in part its 1953 construction program involving expenditures presently estimated at approximately $2,694,500.

The Public Service Commission of West Virginia by order dated April 8, 1953, having expressly authorized the proposed transactions; and

Due notice having been given of the filing of the joint application-declaration, as amended, and a hearing not having been requested or ordered by the Commission and the Commission finding that the applicable provisions of the act and the rules and regulations promulgated thereunder are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and the interest of investors and consumers that said joint application-declaration, as amended, be granted, and permitted to become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act that said joint application-declaration, as amended, be, and the same hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-5371; Filed, June 17, 1953; 8:47 a. m.]

[File No. 70-3031]

NATIONAL FUEL GAS CO. ET AL.

NOTICE REGARDING PROPOSED ISSUANCE AND SALE OF NOTES BY PARENT COMPANY TO BANK AND ISSUANCE AND SALE OF COMMON STOCK BY ONE SUBSIDIARY AND OF NOTES BY THREE SUBSIDIARIES TO PARENT

JUNE 12, 1953.

In the matter of National Fuel Gas Company, Iroquois Gas Corporation, Pennsylvania Gas Company, United Natural Gas Company, The Sylvania Corporation, File No. 70-3031.

Notice is hereby given that National Fuel Gas Company ("National"), a registered holding company, and its public utility subsidiaries, Iroquois Gas Corporation ("Iroquois"), Pennsylvania Gas Company ("Pennsylvania") and United Natural Gas Company ("United"), and its non-utility subsidiary, The Sylvania Corporation ("Sylvania") have filed a joint application-declaration, and an amendment thereto, with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("act"). Applicants-declarants have designated sections 6, 7, 9, 10, and 12 of the act and Rule U-43 promulgated thereunder as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than June 23, 1953, at 5:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after June 23, 1953, said application-declaration, as filed or as further amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said application-declaration which is on file in the office of this Commission for a statement of the transactions therein proposed, which are summarized as follows:

Pursuant to a Credit Agreement, dated May 26, 1953, with the Chase National Bank of the City of New York, National proposes to borrow, from time to time, up to and including December 31, 1953, amounts not to exceed the aggregate of $8,000,000. Said borrowings will be evidenced by promissory notes dated as of the date of each such borrowing, maturing on July 15, 1955, and bearing interest at the rate of 3¼ percent per annum to and including July 14, 1954 and at the rate of 3½ percent per annum thereafter. The notes may be prepaid, in whole or in part, at any time, without penalty, unless prepayment is made directly or indirectly from the proceeds, or in anticipation, of any bank borrowing, in which event the company is required to pay a premium of ½ of 1 percent of the amount prepaid. National is to pay a commitment fee, computed at the rate of ⅜ of 1 percent per annum from July 15, 1953, on the unused portion of the bank's commitment. National proposes to use the proceeds from these borrowings to purchase capital stock of or to make loans to its subsidiaries in accordance with the transactions described below.

Iroquois proposes to issue and sell to National (the holder of all the outstanding capital stock of Iroquois) and National proposes to purchase from Iroquois, from time to time as funds are needed by Iroquois, additional shares of common stock not to exceed in the aggregate 32,000 at a price equal to its par value of $100 per share, or an aggregate price of $3,200,000. Iroquois will use the funds from such sale to cover in part the cost of construction work and to purchase natural gas for underground storage during 1953. Iroquois estimates that its construction program for 1953 will require expenditures of $3,610,000.

Pursuant to Credit Agreements dated May 25, 1953, Pennsylvania and United propose to issue and sell to National, from time to time to December 31, 1953, unsecured promissory notes not to exceed the aggregate respective amounts of $2,000,000 and $2,550,000. The notes will bear the same date of maturity and the same rate of interest as the notes to be issued by National to the bank. Pennsylvania and United will use the proceeds from the sale of their notes to make additions to their utility plants in 1953 and to purchase additional gas for underground storage. The companies' construction requirements for 1953 are estimated at $1,991,000 for Pennsylvania and $4,224,000 for United.

Pursuant to a Credit Agreement dated May 25, 1953, Sylvania proposes to issue and sell to National, from time to time to December 31, 1953, two unsecured promissory notes in the aggregate amount of $250,000. Each such note will be in the principal amount of $125,000, and the first note will mature on June 1, 1953, and the other note on June 1, 1953. Both notes will bear interest at the rate of 3¼ percent per annum up to and including July 14, 1954, and at the rate of 3½ percent per annum thereafter. Sylvania will use the proceeds from the sale of such notes to make additions to its plant in 1953. The company's construction requirements for 1953 are estimated at $1,039,100.

The subsidiaries have the option to prepay any note to National, in whole or in part, at any time, upon paying all interest accrued on the principal amount so prepaid to the date of its prepayment.

The application - declaration states that National intends to finance the repayment of any loans, issued pursuant to the above Credit Agreement and outstanding before maturity date, with the issuance and sale of common capital stock and/or long-term debenture bonds, and that Pennsylvania and United intend to finance the payment of their promissory notes to National, issued pursuant to the Credit Agreement herein and outstanding on or before maturity date, with the issuance and sale of common capital stock.

The New York Public Service Commission, by order dated May 26, 1953, authorized the proposed issuance and sale of additional shares of common stock by Iroquois subject to the condition that said stock be sold not later than September 30, 1953. It is represented that Pennsylvania and United have applied to the Pennsylvania Public Utility Commission for permission to register Securities' Certificates in respect to the issuance and sale of their promissory notes, and that copies of said Certificates will be supplied by amendment.

The application - declaration states that no commissions are to be paid in connection with the proposed transactions, and that expenses to be incurred by applicants-declarants in connection with such transactions will aggregate approximately $12,790, including legal fees of $4,200.

It is requested that the Commission's order herein become effective upon its issuance.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-5372; Filed, June 17, 1953; 8:47 a. m.]

[File No. 70-3086]

COLUMBIA GAS SYSTEM, INC. AND KEYSTONE GAS CO., INC.

NOTICE REGARDING ISSUANCE AND SALE OF PRINCIPAL AMOUNT OF INSTALLMENT NOTES BY SUBSIDIARY TO PARENT

JUNE 12, 1953.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia") a registered holding company, and one of its public utility subsidiaries, The Keystone Gas Company, Inc. ("Keystone") have filed a joint application-declaration with this Commission pursuant to the provisions of sections 6 (b) 9 and 10 of the Public Utility Holding Company Act of 1935 ("act") All interested persons are referred to said application-declaration which is on file in the office of this Commission for a more detailed statement of the transaction therein proposed, which is summarized as follows:

Columbia, which owns all the outstanding securities of Keystone, proposes to purchase up to $100,000 principal amount of installment notes to be issued by Keystone. The notes are to mature on February 12, in each of the years 1955 to 1979 and are to bear interest at the rate of 4 percent per annum or such lower rate, being a multiple of ⅛ of 1 percent, as shall be not less than the "cost of money" to Columbia in respect of debentures anticipated to be sold later this year. Prior thereto the notes will bear interest at the rate of 4 percent per annum.

It is stated that the proposed transactions are to be consummated in order to provide Keystone with the funds, as required up to March 31, 1954, to finance its 1953 construction program which will require expenditures to be made approximating $119,000.

It is estimated that Keystone and Columbia will incur expenses, with respect to the issuance and purchase of the installment notes, in amounts of $460 and $150, respectively.

Keystone has filed an application with the Public Service Commission of the State of New York for approval of the issuance of these notes. The order to be issued therein will be supplied by amendment.

Notice is further given that any interested person may, not later than June 29, 1953, at 5:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues of fact or law, if any, raised by the said application-declaration which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after said date, said application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transaction as provided in Rule U-20 (a) and Rule U-100 thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-5370; Filed, June 17, 1953; 8:47 a. m.]

[File No. 70-3087]

COLUMBIA GAS SYSTEM, INC. AND OHIO FUEL GAS CO.

NOTICE REGARDING ISSUANCE AND SALE OF COMMON STOCK AND INSTALLMENT NOTES BY SUBSIDIARY TO PARENT

JUNE 12, 1953.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), a registered holding company and one of its public utility subsidiaries, The Ohio Fuel Gas Company ("Ohio Fuel") have filed a joint application-declaration with this Commission pursuant to the provisions of sections 6 (b) 9 and 10 of the Public Utility Holding Company Act of 1935 ("act") All interested persons are referred to said application-declaration which is on file in the office of this Commission for a more detailed statement of the transaction therein proposed, which is summarized as follows:

Columbia, which owns all of the outstanding securities of Ohio Fuel, proposes to purchase, and Ohio Fuel proposes to issue and sell, from time to time but not later than March 31, 1954, as the funds are needed, (a) 100,000 shares of common stock, $45 par value, for $4,500,000 and (b) upon completion of the purchase of said shares of common stock, $7,500,000 principal amount of installment notes to be dated their date of issue and to mature in equal amounts on February 15, in each of the years 1955 to 1979, inclusive. Said notes are to bear interest at the rate of 4 percent per annum or such lower rate being a multiple of ⅛ of 1 percent, as shall be not less than the "cost of money" to Columbia in respect of debentures anticipated to be sold later this year. Prior thereto the notes will bear interest at the rate of 4 percent per annum.

It is stated that the proposed transactions are to be consummated in order to provide Ohio Fuel with funds to finance its 1953 construction program estimated at $18,286,000, and the purchase of "cushion" gas in connection with its gas storage program, estimated at $2,359,000.

It is estimated that Ohio Fuel and Columbia will incur expenses, with respect to the issuance and purchase of the common stock and installment notes, in amounts of $14,700 (including $13,200 Federal original issue tax) and $150, respectively.

The proposed issue and sale of securities by Ohio Fuel was authorized by the Public Utilities Commission of Ohio by order dated May 21, 1953.

Notice is further given that any interested person may, not later than June 29, 1953, at 5:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues of fact or law, if any, raised by the said application-declaration which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after said date, said application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transaction as provided in Rule U-20 (a) and Rule U-100 thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 53-5374; Filed, June 17, 1953; 8:48 a. m.]

H. C. STODDARD CO.

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

In the matter of Harry C. Stoddard, d/b/a H. C. Stoddard Company, Box 724, Sparta, New Jersey.

At a regular session of the Securities and Exchange Commission held at its

office in the city of Washington, D. C., on the 12th day of June 1953.

I. The Commission's public official files disclose that H. C. Stoddard Company hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof,[1] stating that registrant did not file with the Commission reports of his financial condition during the calendar year 1952, as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has willfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V. *It is ordered,* That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof on the 15th day of July 1953 at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington, 25, D. C., before a Hearing Examiner to be designated by the Commission. On such date the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before July 7, 1953. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived.

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the FEDERAL REGISTER not later than fifteen (15) days prior to July 15, 1953.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 53-5363; Filed, June 17, 1953; 8:46 a. m.]

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[1] Filed as part of original document.

WELCH AND CO.

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

In the matter of Frederick P. Welch d/b/a Welch and Company, 156 North Upper Street, Lexington, Kentucky.

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 12th day of June 1953.

I. The Commission's public official files disclose that Welch and Company hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof,[1] stating that registrant did not file with the Commission reports of his financial condition during the calendar year 1952, as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in Paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

IV The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V. *It is ordered,* That registrant be given an opportunity for hearing as set forth in Paragraph IV hereof on the 15th day of July 1953, at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. On such date the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before July 7, 1953. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived.

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the FEDERAL REGISTER not later than fifteen (15) days prior to July 15, 1953.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 53-5369; Filed, June 17, 1953; 8:46 a. m.]